SERVICE INDUSTRIES DEVELOPMENT ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON BUSINESS, TRADE, AND TOURISM

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1233

TO ESTABLISH A PROGRAM IN THE DEPARTMENT OF COMMERCE TO PROMOTE UNITED STATES SERVICE INDUSTRIES, ENHANCE THEIR COMPETITIVENESS, AND FOR OTHER PURPOSES

OCTOBER 20 AND 21, 1981

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SERVICE INDUSTRIES DEVELOPMENT ACT

TUESDAY, OCTOBER 20, 1981

U.S. Senate,
Committee on Commerce, Science, and Transportation,
Subcommittee on Business, Trade, and Tourism,
Washington, D.C.

The subcommittee met at 10 a.m. in room 235, Russell Senate Office Building, Hon. Larry Pressler (chairman of the subcommittee) presiding.

OPENING STATEMENT BY SENATOR PRESSLER

Senator Pressler. I will call these hearings to order. Let me say that Senator Inouye is on his way here. He has been a very strong mover in this area and we will be hearing from him. But I think we'll start the hearing now.

I want to welcome you all to these hearings on the Service Industries Development Act, S. 1233. Senator Inouye and I appreciate your being here to explore this most important issue.

In my view, this legislation helps fill a glaring void in the oversight and planning activities of the Federal Government as they relate to service industries. Despite a lack of assistance or encouragement by the Federal Establishment, service industries such as telecommunications, banking, transportation, insurance, advertising, and tourism have grown to the point where they now comprise two-thirds of our gross national product. In addition, were it not for service industry exports, our overall trade balance would show a massive deficit.

I believe the reason service industries have been overlooked by the Federal planners is that most of our economic projections are still based on the premise that manufacturing comprises the bulk of our economic activity. This premise is obviously faulty when, by almost any measurement, the service sector is now twice the size of manufacturing in this country.

The other reason manufacturing interests receive more attention is that this sector is generally not as healthy as the service sector. However, if the success of the service industries in the United States is to continue, we will definitely have to devote more time and resources in this area.

Already, disturbing signs of stagnation are appearing in the service sector; especially in the area of exports. The trade surplus in our service account, although still very large, remained virtually unchanged between 1979 and 1980. This fact does not bode well for future expansion of the service sector itself, and it is obviously worrisome in terms of our future export potential.

I am convinced that even with a little stimulation from the Federal Government, service exports could be increased to the point where our current account would show not only a large, but a consistently growing, surplus.

On the positive side, the problems confronting U.S. service firms have been receiving more attention in the press lately. This is an important step in raising the consciousness of both the public and Government officials regarding the crucial role services play in our economy. For example, an article in the February 8, 1981, New York Times made reference to the fact that there is no general agreement for tariffs and trade for the service sector. The article emphasizes the need for such an agreement by pointing out that "liberalization of trade in services is seen as an essential accompaniment to the export of advanced technology, a particularly strong export area for the United States."

And a Wall Street Journal article from March 3, 1981, includes a reference to service industries by Mr. Arthur Dunkel, Director-General of the General Agreement on Tariffs and Trade in Geneva, Switzerland. Mr. Dunkel points out that the service sector "is as important a sector of international economic relations as trade in goods."

It is important that we not be the last participant in the international trade arena to realize the importance of service industries. This is especially true since it is our strong suit in international trade.

I have been gratified that the Secretary of Commerce, Malcolm Baldrige, has taken such an active interest in the whole international trade area. It is also promising to note the cooperative attitudes taken by both Secretary Baldrige and U.S. Trade Representative William Brock in working together in this area.

Much needs to be accomplished if we are to maximize our trade potential in the service sector, but it is my belief that we now have the type of people in place who are capable of doing the job. The structure provided by the Services Industries Development Act will, I am confident, assist them with their task.

With that opening statement, I would like to call on a number of witnesses today, first from the Government, and then tomorrow, we will be hearing from the private sector.

The first witness I would like to call is Richard Self, Acting Assistant U.S. Trade Representative for Policy Development and Services before the Committee on Commerce, Science, and Transportation.

And let me add to my opening statement a reflection that we have given manufacturing perhaps the most attention in our international trade. I have always been concerned that agriculture is another area that has been very strong in exports, but that we have not given the same type of attention in terms of the general agreement.

Indeed, this weekend, a group of Canadian parliamentarians, 15 in number, are coming to Washington to talk about international wheat agreements and the problem of both Canada and the United States selling wheat at below the cost of production and what can be done about it in terms of an international agreement.

But it is true also in the service industries. We've had a great deal of prosperity there but we have not been looking at that sector with the same attention we've been looking at the manufacturing industries.

I want to commend Senator Inouye and his staff for their fine work in calling this to our attention. And Senator Inouye, I have given my opening statement and I yield to you.

OPENING STATEMENT BY SENATOR INOUYE

Senator INOUYE. I would like to express my appreciation to Senator Larry Pressler for his prompt scheduling of this year's hearings on S. 1233, the Service Industries Development Act.

This bill is basically similar to S. 3003, the legislation on which the Commerce Committee held hearings last year. Last year's hearings were the first ever to be held on the service component of our national economy and in our international trade. They were meant to introduce the subject to the general public, to involve representatives of service companies in the hearings process, to begin to identify problems that impede our international trade in services, and to discuss legislative ideas to strengthen American service firms.

I am pleased that within the year since our first hearings, service exports are becoming a subject which has assumed a much higher public policy visibility.

This interest is natural since services constitute such a high percentage of our gross national product and our exports. According to an interagency study released early this spring, service exports in 1980 may have amounted to $60 billion, or almost double what official figures record. Staff estimates by the Department of Commerce suggest that this figure was even higher—perhaps amounting to $128 billion.

Whatever the accurate figure, we know that service exports are far larger than official balance of trade statistics. They must, logically, also employ more people than currently estimated. Some of the most important industries lie within the jurisdiction of this committee—transportation, travel and tourism, telecommunications, and insurance to mention a few.

With last year's hearings as a spur, the Trade Policy Committee has developed a work plan on the international trade in services. The topic has been raised in the OECD, which has several working groups considering the trade in services and tangential but related areas such as transborder data flows. Other committees besides the Commerce Committee have developed an interest in this subject. I welcome this interest since I believe it is a bipartisan issue on which the Government must make common cause with business and labor to maximize our national benefits.

It is internationally acknowledged that the United States is the leading spokesman for multilateral negotiations on the trade in services. We delude ourselves if we expect mutilateral negotiations to review these problems cleanly in a single forum or agreement to come easily.

First, our trade laws may have to be strengthened to provide additional remedies against obstacles to the free conduct of trade in services.

Second, we must begin now through bilateral negotiations, domestic legislative action, and international diplomacy to resolve problems which may be inappropriate for multilateral fora. For example, in the recent telecommunications bill, S. 898, the Senate Commerce Committee inserted a section requiring, among other things, reciprocity before foreign information services can gain access to the U.S. market.

Third, a great deal of academic research must still be done. For example, a more precise figure on service exports should be developed. We should also determine how many people are affected by service exports.

Fourth, we must strengthen our domestic service companeis to enable them to compete abroad. The prime example of a languishing service industry is the merchant marine, which will be a vital link in our national security in a time of national emergency. There may be a need for additional legislation, such as tax credits for high-technology, capital-intensive service companies equivalent to those received by manufacturers.

I do not intend this work program to be exhaustive. Clearly, our efforts will require coordination between Government and the private sector and a great deal of imagination and leadership.

Regrettably, there are still some industries which are following a policy of noncooperative with the rest of the service sector. Failure to build a common front and to form a coalition of reinforcing interests might be construed as weakening these industries' claims to equity if they should encounter international trade problems.

Unfortunately, there are instances in which short-term industry or corporate interests may override national considerations. We must keep open a dialog with these companies and industries to insure that their justifiable interests are not ignored and to convince them that a far superior course is to cooperate to keep open the channel of international commerce.

I would again like to thank you, sir, for your prompt scheduling of this hearing. I think it demonstrates the bipartisan nature of Congress desire to finally recognize the service industry for what it is. I'm certain that everyone will agree that if it weren't for the service industry, we'd be not on the plus side on the trade balance ledger.

So I commend you, sir.

[The bill follows:]

97TH CONGRESS
1ST SESSION

S. 1233

To establish a program in the Department of Commerce to promote United States service industries, enhance their competitiveness, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20 (legislative day, APRIL 27), 1981

Mr. INOUYE (for himself and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To establish a program in the Department of Commerce to promote United States service industries, enhance their competitiveness, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited at the "Service Industries Development Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the United States is a service-oriented economy, in which seven of ten working Americans are employed in the service sector and approximately 65 per centum of the gross national product derives from services;

(2) the importance of services in commerce has been overlooked in the development of United States economic analysis and policy;

(3) services, including investments, are an important factor in the United States international trade, accounting for almost 30 per centum of total United States trade, and provided the United States with a surplus of more than $34,000,000,000 in 1980; and

(4) American service industries are encountering increased foreign competition and impediments to international operations and require the support of the United States Government to maintain their international competitiveness.

DECLARATION OF PURPOSE

SEC. 3. The Congress declares that—

(1) the governmental organization to assist and promote American service industries can and should be improved in order to study and collect information, focus attention on industries' problems and assist in the

resolution of such problems, and develop service-related policies which promote the national interest;

(2) the Department of Commerce shall have, in coordination with other appropriate agencies, lead responsibility in the executive branch for developing and implementing policies to enhance the competitiveness of American service industries and for achieving the objectives of this Act;

(3) the United States Government should make available adequate financial resources and personnel to implement the objectives of this Act; and

(4) it is the objecive of the United States Government to promote the free world trade in services to the maximum extent feasible and to utilize the full resources of the Government to obtain reciprocal rights and benefits for United States traders and investors.

DEFINITIONS

SEC. 4. As used in this Act, the term—

(1) "Secretary" means the Secretary of Commerce;

(2) "Department" means the Department of Commerce;

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, Guam, Samoa, and the Virgin Islands; and

(4) "services" means economic outputs which are not tangible goods or structures, including, but not limited to, transportation, communications, retail and wholesale trade, advertising, construction, design and engineering, utilities, finance, insurance, real estate, professional services, entertainment, and tourism, and overseas investments which are necessary for the export and sale of such services.

ESTABLISHMENT AND PURPOSES OF PROGRAM

SEC. 5. (a) The Secretary is authorized to establish in the Department a service industries development program.

(b) The purposes of the program shall be to—

(1) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(2) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(3) develop a data base for policymaking pertaining to services;

(4) collect and analyze information pertaining to the international operations and competitiveness of the United States service industries;

(5) analyze—

(A) United States regulation of service industries;

(B) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(C) antitrust policies as they affect the competitiveness of United States firms;

(D) treatment of services in commercial and noncommercial agreements of the United States; and

(E) adequacy of current United States financing and export promotion programs;

(6) document trade impediments to United States services firms and seek to resolve complaints by such firms;

(7) provide staff support for negotiations on service-related issues by the United States trade representative and the domestic implementation of service-related agreements;

(8) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(9) monitor significant Federal and non-Federal governmental activities affecting the service sector;

(10) conduct sectoral studies of domestic service industries;

(11) collect comparative international information on service industries and policies of foreign governments toward services;

(12) develop policies to strengthen the competiveness of domestic service industries relative to foreign firms;

(13) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(14) provide statistical, analytical, and policy information to State and local governments and service industries.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the activities authorized by this Act.

Senator **Pressler**. We will be hearing from some public witnesses and the Chamber of Commerce and the AFL-CIO and the Department of Commerce today, and tomorrow, from some private witnesses.

I might say that Mr. Jack Valenti very much wanted to be with us tomorrow, but can't be. But we will be getting written testimony from the movie industry and perhaps if it works out, we can have another half day of hearings later on if there are other witnesses who also have a conflict.

But with that, I will call on Mr. Richard Self, the Acting Assistant U.S. Trade Representative.

STATEMENT OF RICHARD SELF, ACTING ASSISTANT U.S. TRADE REPRESENTATIVE FOR POLICY DEVELOPMENT AND SERVICES

Mr. **Self**. Thank you, Mr. Chairman. I am pleased to represent Ambassador Brock on this occasion. Geza Feketekuty, who spoke on behalf of USTR at the hearings on services held last year by this committee, is on sabbatical and regrets that he cannot be here today.

Since last year's hearings, the attention of the issues involving trade in services has increased significantly both here and abroad. Thanks to the efforts of many, including this committee, trade in services is now firmly planted on national and international trade policy agendas.

Ambassador Brock has described services as the "frontier for the expansion of U.S. exports." He is especially concerned about foreign trade barriers which restrict U.S. exports of services and has called for our work on services to be pursued as a matter of priority. He and the administration are fully committed to the liberalization of trade in services and consider the growth in U.S. exports of services to be an important part of the economic recovery program.

There remains a great deal of work in removing barriers to trade in services. While substantial progress has been made during the past year in developing services trade policy, we continue to face a number of roadblocks that must be removed before we can begin to significantly reduce impediments to U.S. service industry exports. Yet, there is no question in my mind that we are in a good position to pursue this task. We have a fairly precise idea of our basic objectives in trade in services and have a comprehensive work program underway in pursuit of these goals.

This morning I would like to describe briefly the course of action we are following in the development of services trade policy, to report on the progress of the work underway, and to discuss the specific areas where we need to make progress between now and the GATT ministerial to be held in the fall of 1982.

Our efforts in trade in services are being carried out in accordance with a work program established in April by the Cabinet-level Trade Policy Committee. It is the first overall strategy for services in the history of the U.S. trade policy. It calls for:

Full use of existing bilateral arrangements with other governments to resolve current trade problems brought to the Government's attention by the private sector;

Inclusion of services in the review of export disincentives;

Domestic and international preparations for future multilateral negotiations on services;

Review of domestic legislative provisions relating to the achievement of reciprocity for U.S. service industries; and

Review of the adequacy of U.S. statistics on trade in services.

We have already made considerable progress under the program and are continuing to build upon past achievements. I would like to outline briefly what we have accomplished and how we are proceeding in each of the five areas of the program.

Ideally, trade problems should be resolved on the basis of negotiations between the two countries involved, and we have devoted considerable time to the resolution of disputes brought to our attention by the private sector. The role of the USTR is frequently that of a catalyst in which the appropriate Government agency is acquainted with the trade features of a problem. We have worked hard to bring services trade issues to a resolution by providing assistance to the private sector, and in the process have identified a number of issues that call for multilateral attention.

We have also been promoting greater dialog on services issues with our trading partners. Ambassador Brock and other U.S. trade officials have discussed services with their counterparts in Canada, Mexico, Western Europe, Japan, Australia, New Zealand, and the ASEAN nations. These discussions have been very important in informing our trading partners of our intent to make full use of existing bilateral arrangements for dealing with services trade problems and to acquaint them with the mutual benefits we see in the removal of barriers to trade in these sectors.

Considerable progress has been made over the past year in building both a domestic and an international political consensus on the importance of trade in services and on the desirability and viability of future multilateral negotiations.

The OECD, the international organization that has given the most thorough attention to issues in service trade, reached a milestone in June of this year with the adoption of a resolution at the ministerial level that endorsed the increased attention to this area and established a political level commitment to a multilateral effort to establish rules in services trade. This marks the first time that OECD political leaders, as opposed to specialists, have made such a commitment, providing an important impetus to future progress in this area.

We have also been encouraged by the recent interest and preliminary study of services conducted in the GATT. The GATT Secretariat recently prepared an excellent paper on services for review by the Consultative Group of 18, (CG-18), a steering group of the GATT. The paper reviewed the historical role GATT has played in services, and considered the question of whether some existing GATT provisions could be extended to trade in services.

We expect to further pursue the issue of services at the GATT ministerial meeting scheduled for next fall. That meeting of the GATT trade ministers will be the first of its kind since June 1973, when the Tokyo round of the MTN was formally initiated.

Although the agenda for the fall meeting has not yet been determined, Ambassador Brock has voiced his support for placing services high on the agenda of topics for discussion. It is his desire that the issue of trade in services be discussed at the ministerial in a substantive, rather than a parochial fashion with necessary preparatory work in advance of this gathering that will help insure a good exchange on the issue.

In addition to the progress in the OECD and the GATT, we have also made considerable headway in defining issues and building a conceptual framework for future negotiations. Our inventory of trade problems in services has become the key reference point for trade issues in services. It has become the basis of dialog with our business community and internationally, it is being widely used as the key resource document.

Earlier this year, we shifted the primary focus of our work from building the inventory to analyzing its contents, sector by sector. We currently have studies at various stages of completion that will provide for each major services sector an analysis of: one, the trade issues; two, Government policy objectives; three, current international agreements; and four, possible approaches to future negotiations.

We are using these studies to build a consensus within the Government and with the individual industries on the key objectives in each sector and on a conceptual framework for future negotiations. These studies will be distributed internationally in order to help build international dialog and consensus. We expect to complete this process by the end of the year.

The next phase of our work will be to develop cross-cutting functional studies that will focus on the most common issues for all service sectors, such as Government procurement, Government regulations, standards, subsidies, the role of public monopolies, customs problems and market access issues. After completion of this process, we should be in a position to develop concrete U.S. negotiating proposals and an overall approach to attacking these problems in the appropriate international fora. We are aiming to achieve this by next April.

A serious dimensional problem in our efforts to develop services trade policy is the lack of adequate data on international trade in services. This is a problem for our trading partners as well. By some estimates, current U.S. Government data understates U.S. exports of services by at least 100 percent. In addition, very little data is available for trade in individual service industries or for individual countries.

Major changes will be required to remedy this situation. To prepare the groundwork for a major overhaul, USTR, the Department of State and the Department of Commerce sponsored two research contracts—one to build a better set of figures on the basis of currently available information and the other designed to develop recommendations for improving official Government data. The first of these projects was recently completed and estimates that exports of services in 1980 were in excess of $60 billion, instead of the $35 billion figure published in balance-of-payments data for that year. The study also provides us with information that there may be important gaps in our official data.

The second of these projects, which is still underway, provides the Government with recommendations for improving the gathering and tabulation of Government data on services. Once completed, steps must be taken to establish a private advisory panel and an interagency committee to evaluate the recommendations and develop proposals for their implementation.

A number of service industries have indicated that various U.S. laws and policies represent a more serious obstacle to their exports than foreign trade barriers. The construction industry, in particular, falls into this category. The most frequently mentioned of these export disincentives are familiar to the Congress. They have been addressed in legislation, including the Economic Recovery Tax Act enacted last summer which eases requirements on taxation of Americans working abroad.

Additional legislative efforts under consideration include the Export Trading Company Act and changes to the Foreign Corrupt Practices Act. We have been working closely with service industries and Congress to assure that efforts to deal with export disincentives fully take into account their interests.

Because service industries are, in many instances, labor intensive, tax relief on income earned abroad as recently provided by Congress will be a major assist in promoting U.S. service industries abroad and the tax savings will sharpen the U.S. competitive advantage in a number of professional services.

Likewise, enactment of the Export Trading Company Act legislation will go far in bringing small and medium U.S. service firms into the export sector of the economy. We continue to urge its passage. We will also continue to stress the importance of changes to the Foreign Corrupt Practices Act that will clarify rules to exporters in this sensitive area.

It has become increasingly clear that current legislation is inadequate to establish reciprocity as a fundamental principle for trade in services. First, we are analyzing existing reciprocity provisions in U.S. law pertaining to services to determine if this principle can be further expanded in appropriate areas.

The concept of reciprocity remains the principal common denominator in achieving more open markets in services trade. Many of our State and Federal laws contain provisions that conflict with this principle or do not address it at all. A very careful analysis should be made of the options available to us legislatively for folding in this very important concept in the regulatory area.

The work program that I have just outlined has proven to be a very effective vehicle in coordinating the effort to develop services trade policy. It has carried us to a point where we will be able to realize concrete achievements within the next 6 months, especially in crucial areas of identifying the problems for all sectors and developing a negotiating strategy. There remain, however, a number of fundamental problems that represent obstacles to the long-range goal of establishing international rules in services trade. Progress must be made in these areas during the next year to broaden the momentum that has been generated in the United States.

First, we need to consider how we can best persuade other countries to increase the staff resources that are made available for the work on services.

At the same time, we will need to continue efforts to build political support. Most other countries are handicapped by the lack of adequate staff resources committed by services and by a complete fragmentation of responsibility. The EC Commission, for instance, has allocated only one-third of a professional year for work in services. Our aim is to help overcome these problems by sharing the result of our analysis as widely as possible, supporting the development of a private international research program under the aegis of organizations such as the Trade Policy Research Center in London and the International Chamber of Commerce in Paris, and to accelerate the political level discussions so that services trade issues will be viewed with higher priority in other countries.

Second, we must increase our efforts to encourage developing country participation in the establishment of international consensus on key trade issues in services. Many developing countries suspect that efforts to open markets to services trade represent a one-way trade victory for the industrialized countries, particularly the United States.

Some of these countries apply the "infant industry" approach to some of their services industries by protecting their domestic market against oftentimes more attractive import competition to give their own service industries the chance to develop.

In today's world, industrial development depends more than ever on the best possible services which support industry. If the Government of any country prohibits foreign participation in its services sectors, it runs the risk of lacking the capacity necessary to provide vital services in an era of growing technological advancement in key industrial sectors.

Third, we need to continue with domestic and international analysis of key trade issues in order to develop concrete proposals for future negotiations in services. We must also work to achieve international agreement on a work program in the OECD and in the GATT in preparation for such negotiations.

In conclusion, I have identified specific areas of important progress during the last year in reaching some of our objectives in services trade. It is significant, for instance, that we are within months of tabling position papers in an international forum that identify the specific trade problems in all service sectors and establish concrete negotiating approaches for resolving them.

At the same time, it should be recognized that this is an exercise that will require years, rather than months, to conclude. In the meantime, trade officials must learn to grasp the complexities of service trade issues as well as to consider less conventional modalities for resolving them multilaterally.

The next year could be a turning point as to whether services trade issues are looked upon by our trading partners as ripe for eventual formal negotiation. You can be assured that USTR will be engaged in a conscience-raising exercise at every level, taking advantage of events such as the GATT ministerial to bring the discussion of services trade from lofty platitudes to more specific negotiating objectives. We look forward to continued close cooperation with the private sector and the Congress on the key issues that will undoubtedly crystalize in the months to come.

That concludes my prepared testimony. I'll be happy to take any questions.

Senator **Pressler**. Thank you, Mr. Self, for that statement and I'm glad to hear that the U.S. Trade Representative's Office is giving a high priority to this item.

I remember many, many years ago when I first finished law school, I went to work in Geneva for our Government on some GATT issues. It always struck me that the manufacturing interests were represented there and were advocated there much more than the agricultural interests or the service area. Maybe that is changing, but I suppose traditionally, and quite appropriately, our manufacturing sector has received the most attention since it has had problems. We tend to hear most about their problems in international trade, while some other areas that have been fortunately doing better receive less attention.

But would you agree with the observation that I made in my opening statement concerning the priorities? Is it true that manufacturing has gotten most of our attention and most of our concessions in the areas of GATT and trade?

Mr. **Self**. Yes; I would agree with you, Mr. Chairman, that manufacturing has been the principal area of endeavor. There are a number of reasons for this, the principal one being that at least in the past, manufacturing industries have been more import-sensitive. It's more readily easy to identify the specific trade volume in manufacturers' imports because they are covered by the tariff and services, naturally, are not. But there's no question that services have been the stepchild in the past and I would say that at the time when you were in Geneva, they probably didn't know what services were, at least in the framework that we're talking about now.

So in that context, there has been considerable progress. It's all relative. Much more progress has to be made. I think the term I used at the end, "conscience-raising," continues to be the appropriate phrase for a number of people who have examined trade problems in the past, and I think it's going to be one of the more complex challenges to identify the proper methods in which you can possibly reach agreements, whether they're multilateral or bilateral.

Senator **Pressler**. Now is it your opinion that the $34 billion surplus figure for service trade is correct?

Mr. **Self**. No. I think that while it's a very imprecise process to conclude that services exports are *x* because our trade figures and our current account figures simply don't break them out in a way that make it accurate, that the $34 billion amount for the 1980 year is probably too small.

The recent study that was mentioned in my testimony suggested that once you get beyond the area of identifiable current account items, such as transportation, for instance, and when you glean out those categories related to foreign direct investment, that you are talking about a figure closer to $60 billion.

On the other hand, that study, as you may know, casts its own doubts as to the appropriate data-collecting bases upon which they could form their conclusion.

But, in any event, I would say that it's closer to the $60 billion figure as suggested by that study, rather than $34.

Senator **Pressler**. What is your opinion of S. 1233?

Mr. Self. I support the bill. Obviously, for those of us who are trying to generate momentum domestically and abroad, I think this is an important piece of legislation. I think that there are perhaps provisions that we might want to examine such as whether we can more carefully reflect the reciprocity concept that I suggested in the testimony.

But that is a relatively technical observation. I think that the legislation is a step in the right direction.

Senator Pressler. One of the basic methods for handling unfair trade practices by foreign nations has been to retaliate with import restrictions. If a country refuses to accept certain American exports, we can respond by refusing their exports. What happens, however, in the case of service trade where a lesser developed country might not have any service sector to speak of and we retaliate against discrimination aimed at U.S. service industries by restricting the importation of hard goods?

Mr. Self. Well, I think in many instances it works against our own interests here. That's why I speak of reciprocity in the sense of gaining a form of equivalency. You can't in all instances retaliate against the very practice that a particular foreign government employs. It may work against you in the last analysis. It may be that that the manufacturing import that you are keeping out is one that is not import-sensitive. In that instance it obviously is in the interest of having an import in that sector to increase competitiveness and lower prices. Those are positive features.

On the other hand, I think if you are left with essentially no tools, if you can't get your message across through a negotiating process that a foreign country simply has to open up a crucial area of services trade where, for instance, the United States could be competitive, then we have to consider those tools.

I would not oppose in some instances the idea that we retaliate. But I think that we should be very careful in identifying the moments in which we should do so.

Senator Pressler. I have a few more questions, but at this point, I'd like to yield to my colleague, Senator Inouye.

Senator Inouye. Thank you very much. Mr. Self, there is a possibility that the issue of services will not be on the agenda this fall; is that correct? Next fall, I mean.

Mr. Self. Next fall. Yes, there is the possibility because the agenda has not been established.

Senator Inouye. Now, assuming that it's on the agenda and on your last page you said it may take years, about how many years do we anticipate waiting for this process to come through?

Mr. Self. Senator, I'm very hesitant to make a guess as to the exact period of time. I obviously would prefer the shortest period possible. But what we have to take into account at this stage is that looking at the GATT process historically, you are talking about a scenario in which at the outset there is a GATT ministerial, which produces a mandate that comes from appropriate political leaders.

At that stage, there usually follows an inventory of the issues that need to be discussed, how they can be compartmentalized, how they may be negotiated. That space of time is very hard to determine. For instance, between the end of the Kennedy round and the

Tokyo round, there was a period of 5 years, I think, where there was a very careful analysis of the nontariff barriers to trade that were far more complex, at least conceptually, than those that originally took place for tariffs.

I'm not suggesting it's going to take 5 years. I think that there is a greater urgency on the part of the services industry within this country and abroad that the process move more rapidly. But I don't want to suggest that once the GATT ministerial is over, assuming that services is on the agenda, that you will have the immediate resumption of a negotiating process along the lines of the intensity that took place in the Tokyo round. I just don't think that's realistic.

Senator INOUYE. I ask this question because two insurance companies asked me to make the same inquiry. They've been trying, I think for several years now, to establish themselves in the agent area. They have found that at every step, there is a big obstacle. They just wanted to know how long they should keep on pushing.

Do you have any advice for them?

Mr. SELF. Well, I would only say that it's being given the sort of push that I described in the testimony. I don't think that there was any degree of exaggeration in my reflecting on the importance that Ambassador Brock ascribes to services. He had services trade on his mind before he even took the job as USTR. So it takes no prompting for Bill Brock to discuss services trade problems with his counterparts.

The problem is if we go too fast, if we push our trading partners on the necessity of agreements covering any number of sectors and services, and our trading partners simply are not focusing on that problem—they haven't performed the necessary staff work, they haven't had the sort of dialog with the industry that we have—they could react defensively and may conclude that it simply isn't worth sitting down and discussing.

Thus, while we want to move as quickly as we can, I think we need to be continually taking stock of exactly where our trading partners are on this issue. And that's the reason that I'm somewhat reticent to say to the insurance companies who approached you that we will have something going within 18 months or whatever the case will be. It would be unfair to talk specifically about a time, at least at this stage in the process.

Senator INOUYE. Your statement suggests some cautious support for the incorporation of reciprocity provisions in our laws. That's my conclusion.

Mr. SELF. Yes.

Senator INOUYE. Do you have any idea as to how these provisions would be incorporated?

Mr. SELF. I think that they would have to be expressed, at least at the outset, in a relatively general way.

Senator INOUYE. Authorizing the President or the executive to act in the best interests?

Mr. SELF. That's correct. But I guess one reason that I stress reciprocity is that you will get down to any number of situations where no country can, as a matter of national sovereignty, become totally reciprocal for a particular sector.

Let's take banking, for instance. Country *X* has no prohibitions against bank outlets within its national boundaries; the United States, of course, does. If we reciprocated in that manner, we obviously get into a very fundamental problem of U.S. law.

What I'm suggesting is the concept of reciprocity in a somewhat broader sense that would take into account an equivalent degree of reciprocity in a somewhat different manner. Maybe you're talking about exchange controls. Maybe you're talking about commissions, items that have important commercial mean, but at the same time would achieve a degree of reciprocity that I think is crucial to any trade agreement.

So that's the reason I reflect on it in a somewhat broad sense because for national security, economic, and fundamental State sovereignty reasons, we can't have identical reciprocal provisions. I think that's unrealistic. But if we think about it along the lines of what I expressed, then you're really into the process of reaching agreements in which the level of equivalency is attained.

Senator Inouye. You just mentioned banking. Can you tell us whether the United States is the most liberal of the industrialized countries in Europe and Japan as far as opening their doors to banking to the outside?

Mr. Self. Senator, to be honest with you, I'm not an expert. I know that the United States is certainly one of the more open countries in this area, but I cannot speak in a comparative sense.

Senator Inouye. I was led to believe that the United States is the most open and liberal in the world.

Mr. Self. That is my understanding and yet, I simply cannot reflect on it from the experience of examining other countries' banking regulations. Obviously, this gets to a long-standing U.S. policy of open investment.

Senator Inouye. Is it easier for an American firm to open up a branch in Japan or for a Japanese bank to open up a branch in the United States?

Mr. Self. I believe it's easier for a Japanese bank to open a branch in the United States.

Senator Inouye. Why can't we insist upon equivalency?

Mr. Self. There's no reason why we can't. I think you're talking about the modalities. It's a question of what is the best basis for assuring the Japanese that their sovereignty governing the establishment of financial institutions is retained. But it involves a process in which, in this case, the Japanese would have to be educated as to the necessity for open rules governing the establishment of financial institutions.

Senator Inouye. You mean they're not permissive?

Mr. Self. Well, I don't know that that's the case. I'm speaking in this case hypothetically. I'm going on the assumption that, indeed, the Japanese are more restrictive. What I'm suggesting is that we have to sit down and go through whatever the problems are and establish a basis upon which there can be more openness on each side.

Senator Inouye. In your statement you refer to an excellent paper prepared by the GATT Secretariat, I think CG–18.

Mr. Self. Yes.

Senator Inouye. What were the conclusions of this paper?

Mr. **Self**. The paper drew some important references to the existing GATT codes that are not presently extended with specificity to the service sectors. I refer especially to the Government Procurement Code, the Subsidies Code, and the Standards Code.

In addition, the study, I think, was a good reflection on the problems that exist generally in services trade.

Senator **Inouye**. Can you furnish this committee with a copy of that?

Mr. **Self**. I'd be happy to, sir.

[The following information was subsequently received for the record:]

General Agreement on Tariffs and Trade

TRADE IN SERVICES AND THE GATT—BACKGROUND PAPER BY THE SECRETARIAT

1. The subject of trade in services was introduced in general terms in a short note prepared by the secretariat (CG.18/W/45) in response to a request made in the Group at its meeting of 15 July 1980. At its meeting of 30-31 October 1980, the Consultative Group of Eighteen discussed this paper and agreed that "the secretariat would pursue its analysis, bearing particularly in mind, as guiding principles, those services which are linked to trade in goods, and how obstacles to trade in such services may affect commitments under the GATT and the Codes" (CG 18.13, paragraph 32). The report of the Consultative Group of Eighteen to the Council states that the Group "agreed to keep the matter on its agenda and that the secretariat should pursue its study of this subject, focusing on the links between trade in goods and trade in services and on the relevance of the existing commitments under the General Agreement and the MTN Codes for trade in services." (L/5066 paragraph 20). This paper has been prepared in response to this request.

2. From the economic point of view both services and goods are products. There are therefore many similarities between the two. However, the fact that services are not tangible does mean that they are different from goods in certain ways. Services are, for instance not usually normally transferable or storable which means that there is usually a direct relationship between the provider and the user of a service.

3. The demand for some services, such as health services or entertainment is direct: these may be classified as "consumption" services. The demand for other services, such as transport, insurance or advertising is derived from other economic activities: these may be classified as "intermediate" services. Returns on capital and labour may be classified as "factor" services. Only intermediate services are linked in any significant way with trade in goods.

4. The following are the main linkages between services and international trade in goods:

4.1 Some services are complementary to international trade in goods, the degree of complementarity varing greatly. Some services (such as transport, insurance and banking) are a crucial complement to trade in goods. Others (such as advertising) may not appear absolutely indispensable but may be necessary to attain the volume of sales necessary to justify the marketing of a product. This linkage may work both ways as trade in goods may be complementary to services. A construction company, for example, may need to import machinery to carry out a particular project.

4.2 Some services are substitutes for international trade in goods. Goods may be manufactured under licence rather than imported, the sale of licenced know-how thus being a substitute for trade.

4.3 In some special cases, goods may simply be physical supports for services—such as exposed film, books, programmed computer tape. Such goods may, of course, be traded.

5. Service industries can be classified on the basis of this categorization. Clearly, the extent to which certain services are linked to exports or imports of goods varies greatly from one country to another, as a result of factors such as geographical location, or resource endowment (influencing the types of goods produced and traded). Similar factors also affect the degree to which a country's exports or imports are dependent on foreign or domestic suppliers of associated services. The linkages in Table 1 do not therefore represent actual economic relationships for all countries or for any particular country. There is also a certain amount of overlap between the categories.

Table 1.—Tentative classification of services by nature of association with trade in goods[1]

I. *Complementary services*
  1. Shipping (SIC7121).
  1.1 Port services, including handling, warehousing and storage (SIC 7123).
  2. Other transport (SIC 711, 71[illegible]2, 713) (air, rail, road, inland waterways).
  2.1 Handling, warehousing and storage at loading and delivery stations (SIC 719).
  3. Insurance and Reinsurance (SIC 82).
  3.1 Hull and cargo.
  3.2 Freight, motor.
  3.3 Fire, theft and similar risks.
  4. Wholesaling and retailing.
  5. Banking (SIC 8101, 8102).
  5.1 Financing of imports and exports.
  5.2 Suppliers' credits.
  6. Brokerage (SIC 7191, 8200).
  6.1 Transport and insurance brokers.
  7. Advertising (SIC 8325).
  7.1 Advertising for products and services traded internationally.
  8. Accounting (SIC 832).
  9. Data processing (telematics) (SIC 7200, 8323).
  10. Construction and engineering (SIC 5000, 8324).
  10.1 Project execution.
  10.2 Management training and consulting.
  10.3 Architects, designers etc.
II. Substitute services.
  11. Commercial services (SIC 71, 8330).
  11.1 Franchising and chartering.
  11.2 Leasing.
  12. Repairs and maintenance (SIC 5000, 95).
III. Services embodied in goods.
  13. Films (SIC 9412).
  13.1 Cinematograph films.
  13.2 Television features.
  14. Text copy.
  14.1 Books, manuals, etc.
  14.2 Other computer tapes, etc.

6. The main service industries that have not been fitted into the categories set out above are given in Table 2.

Table 2.—Other services

1. Travel (passenger transportation, tourist counselling and advertising, touring).
2. Life insurance.
3. Miscellaneous professional services (legal, economic, medical, security, etc., including management and consulting).
4. Recreational and cultural services.
5. Rental (real estate).
6. Personal services (other than repair).
7. Government services (diplomatic, military, etc., expenses abroad).
8. Royalties, license fees, copyrights (property income excluding income from financial assets).
9. Factor income (direct and other investment income).
10. Workers' remittances (usually classified as a transfer).

7. Services are either produced and sold in the same country (in which case they are said to be supplied on an "establishment" or "investment" basis) or, being produced in one country and sold in another, they are traded internationally. Some services cannot be traded internationally because their performance requires the simultaneous presence of the supplier and the user—it is not possible to export a haircut. Instances in which this sort of situation occurs are more numerous in the case of services than in that of goods.

8. Obstacles to the performance of services, whether on an establishment or on a trade basis, may affect trade in goods in various ways. This paper discusses measures that affect the supply of services with the exception of obstacles to the estab-

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[1] SIC classification number in parentheses.

lishment of foreign producers (and thus with the free movement of labour), which have not been dealt with in the General Agreement.

9. Such evidence as is available shows that measures adversely affecting international trade in services are largely of the same type as measures affecting trade in goods and that there is a wide variety of such measures. Table 3 presents a first attempt to classify the measures on which information is available.

TABLE 3.—ILLUSTRATIVE LIST OF OBSTACLES TO TRADE IN SERVICES [1]

Service	MFN treatment not granted	National treatment not granted	Taxes or charges	Quantitative restrictions	Technical barriers	Subsidies	Other: (government procurement, exchange control etc.)
Shipping	X	X	X	X		X	X
Other transport	X	X	X	X		X	X
Insurance		X	X	X	X		X
Banking		X		X	X		X
Advertising		X	X	X			X
Film rental		X		X		X	X
Construction/engineering		X		X	X	X	X
Data processing	X	X	X	X	X	X	X
Commercial services		X		X	X		
Management and consulting		X		X			X
Repairs and maintenance	(2)	(2)	X	(2)	(2)	(2)	(2)
Accounting		X		X	X		X

[1] Evidence of an obstacle being applied is shown by a cross (x) in the corresponding column.

[2] No information making identification of obstacles possible.

10. As with measures affecting trade in goods, measures affecting trade in services are either applied at the border or internally. However, measures affecting services are frequently imposed internally as their intangible nature makes services less readily identifiable at the border. Also as in the case of trade in goods, some measures are imposed deliberately to protect domestic production while others are imposed for other purposes, which may be quite legitimate but which incidentally have a protective effect. This is the case of technical regulations. These regulations are imposed on goods in order to protect the health and safety of the population and e.g. on the insurance industry to protect the population against unprofessional or insolvent firms. In the service area, again because products are intangible, the regulations often apply to the way in which firms operate rather than to individual products.

11. The different linkages between services and goods referred to above determine the impact on trade in goods of measures adversely affecting trade in services.

12. The exceptional cases in which a good acts simply as a necessary support for a service (e.g. exposed film, books, programmed computer tape) are straightforward—a measure affecting trade in the good automatically affects trade in the service and vice versa.

13. A restriction on a service which is a substitute for trade in goods will tend to facilitate trade in those goods but this may lead to misallocations of resources.

14. A measure adversely affecting international trade in a service which is a complement to trade in goods will affect that trade adversely. Basic economic forces apply equally to trade in services and trade in goods—free competition among producers of services will bring prices down and restrictions will increase prices and therefore limit quantities consumed. At the limit, if prohibitions on trade in complementary services were necessary they would bring trade in goods to a complete halt.

SERVICES AND THE GATT

15. A number of questions arise in this regard: (1) to what extent has the GATT dealt with services? (2) can the obstacles to trade in services affect existing commitments negotiated in the framework of GATT and if so, how? (3) could existing commitments be extended to trade in services?

16. The GATT has dealt only marginally with services in the past. While the term "products" used in the General Agreement is not defined, the drafting history makes it clear that the General Agreement was in general designed to apply to

goods and not to services[2] and a note to Article XVII:2 which (exceptionally) uses the term "goods" makes it clear that this "is limited to products as understood in commercial practice, and is not intended to include the purchase or sale of services."

17. The General Agreement does, of course, deal with services incorprated in goods. Goods which are simply a physical support for services are covered in the same way as other goods, there being additional obligations relating to exposed cinematograph film in Articles III:10 and IV. These Articles lay down conditions governing the maintenance of screen-time quotas (which require cinemas to show a certain percentage of nationally produced films) and which make such quotas subject to negotiation for their "limitation, liberalization or elimination". In addition, the fact that services have been used in the production and trade of goods will be reflected in the price of goods, which is dealt with in the General Agreement, particularly in Article VII. This Article permits the inclusion of such services, such as insurance and freight, in the basis for the customs valuation of imported products.

18. There are, however, other obligations in the General Agreement which relate to particular services, some of which are enumerated below. Most of these obligations relate to services which complement trade in goods. Article III, providing national treatment on internal taxation and regulation, applies for instance in respect of complementary services supplied in the importing country—paragraph 4 of the Article reading as follows:

"The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product."

19. Article V provides for freedom for traffic in transit through the territory of each contracting party and for most-favoured nation treatment for such traffic.

20. Article VIII provides that all fees and charges imposed in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered, and the Article lists services to which this provision applies. Charging for those government services far above their cost would constitute an indirect means of protection of domestic products or a taxation of imports or exports for fiscal purposes.

21. Article XVII relates to services performed by state-trading enterprises and marketing boards in so far as these are complementary to trade in goods (e.g. the buying, selling and transportation of such goods), laying down that such activities shall be conducted on a nondiscriminatory basis and in accordance with commercial considerations. It recognizes that state trading enterprises "might be operated so as to create serious obstacles to trade" and makes such obstacles subject to negotiation. The Article also establishes a notification procedure.

22. In Article XXXVII developed contracting parties commit themselves to make every effort, in cases where a government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less-developed contracting parties, to maintain trade margins at equitable levels. This commitment relates to services, at least to the extent that governments determine the resale price of products directly.

23. The Contracting Parties have on occasion concerned themselves with services which complement trade in products and which are not dealt with explicitly in the text of the General Agreement. After extensive preparatory work the CONTRACTING PARTIES adopted a recommendation on freedom of contract in transport insurance[3] which reads as follows:

"Taking note of the resolution of the United Nations Economic and Social Council at its fifteenth session (resolution 468 H (XV) of 16 April 1953) and of the studies and reports of the Secretary-General of the United Nations and of the Executive Secretary of the CONTRACTING PARTIES on restrictive measures in regard to transport insurance and their effect on international trade;

Considering that measures adopted by certain countries which restrict the freedom of buyers and sellers of goods to place transport insurance on the most economic basis create, in certain circumstances, obstacles to international trade in that they increase costs of goods entering into international trade;

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[2] See reports EPCT/C.11/25 and EPCT/C.11/48.

[3] Recommendation of 27 May 1959, BISD, 8 Sup, p. 26.

Recognizing that most countries regulate the activities of insurance firms operating on their territory and that national regulation of such activities which addresses itself to the solvency, reliability, prudence and legal accountability of particular firms does not itself constitute an interference to the freedom of traders in the transport insurance field and therefore does not of itself create obstacles to international trade; and

Taking note of the desire of countries that do not have a sufficiently developed and effective national insurance business to take such measures as they consider necessary to foster such a business.

The contracting parties recommend that in the formulation of national policies in the field of transport insurance, governments should endeavour to avoid measures that would have a restrictive effect on international trade, recommend that this matter be regarded as a subject of interest to the contracting parties, and request governments to report to the Executive Secretary any information relevant to the subject matter of this Recommendation not previously reported to him.

24. The second paragraph of the introduction clearly brings out the fact that transport insurance and international trade in goods are complementary. The third paragraph illustrates the fact that services are subject to technical regulations in much the same way as goods, the aim of governments being to protect their citizens, not against unhealthy or dangerous products, but against firms that are insolvent, unreliable, imprudent and not legally accountable. The Recommendation still stands, including the request which it contains for governments to report relevent information.

25. In casting their votes or in recording abstentions on the Decision of 8 May 1961 relating to Uruguayan Import Surcharges, a number of representatives of seafaring countries commented on an element of flag discrimination contained in the relevant legislation of Uruguay (L/1493, Appendix). At subsequent extensions of the waiver granted to Uruguay, these countries regularly raised the question of flag discrimination which resulted in the discriminatory application of the surcharge. The flag discrimination element was lifted by Uruguay in 1972 (L/3722, paras. 8–10).

26. Services were to some extent covered in the Multilateral Trade Negotiations. Table 4 summarizes specific requests made in the MTN for the elimination of obstacles to trade in services. Some offers may have been made to these specific requests in bilateral negotiations but the secretariat has no information on these. However, the main results of the Negotiations in the field of services were incorporated in multilateral agreements on non-tariff measures.

Obstacles to trade in services whose elimination was requested in the MTN, by categories of measures[1]

Tariffs or taxes	Quantitative restrictions	National treatment (including mixing regulations)	Technical barriers	Other
Port taxes Merchant marine taxes Maritime freight taxes Parcel post tax Tax on foreign consulting services Duty on repairs made abroad Recurring customs duties on leased equipment Dubbing fee (films) Price ceilings on film rentals	Restrictions on use of foreign insurance services. Flag discrimination.......... Discriminatory road transport practices and local carrier requirements. Prohibition of use of foreign vessels. Local film copying requirements. Embargo on radio commercials. Screen-time quotas Discriminatory licensing of films. Restrictions on the use of foreign printing services. Restrictions on advertising (films and periodicals).	Local content requirements for insurance. Local content requirements for radio and TV commercials. Compulsory patents .... Discrimination in patent and trademark registration procedures. Exchange rate discrimination.	Containers for use in domestic vessels. Compulsory use of national representatives.	Restrictions on the hiring of nations. Restrictions on establishement and/or local representation. Import credit restrictions.

[1] Only the obstacles most readily identifiable in terms of the different categories are included in the table.

27. Several of the MTN Agreements contain specific references to services. The Agreement on Government Procurement covers services incidental to the supply of products procured by the entities listed in Annex I to the Agreement if the value of these incidental services does not exceed that of the products themselves, but not service contracts per se (Article 1). This Agreement also provides that the licensing of technology should not normally be used as a condition of award of contracts (Article V:14(h)). The Note to Article V:14(h) states:

"Having regard to the general policy considerations of developing countries in relation to government procurement, it is noted that under the provisions of paragraph 14(h) of Article V, developing countries may require incorporation of domestic content, offset procurement, or transfer of technology, as criteria for award of contracts. It is noted that suppliers from one Party shall not be favoured over suppliers from any other Party."

The Agreement also specifies that, in the context of further negotiations provided for in Article IX: 6(b), the Committee established under the Agreement shall, at an early stage, explore the possibilities of expanding its coverage to include service contracts.

28. The following items on the illustrative list of export subsidies, annexed to the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the GATT, contain references to services:

(c) Internal transport and freight charges on export shipments, provided or mandated by governments on terms more favourable than for domestic shipments.

(d) The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported good, on terms or conditions more favourable than for delivery of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commerically available on world markets to their exporters.

(j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes.[4]

(k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a signatory is a party to an international undertaking on official export credits to which at least twelve original signatories [5] to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice a signatory applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

29. The Agreement on Trade in Civil Aircraft covers repairs and operating and maintenance procedures under the following provisions. In Article 2.1.2, Signatories agree "to eliminate by 1 January 1980, or by the date of entry into force of this Agreement, all customs duties and other charges [6] of any kind levied on repairs on civil aircraft and, in Article 3, they "note that the provisions of the Agreement on Technical Barriers to Trade apply to trade in civil aircraft. In addition, Signatories agree that civil aircraft certification requirements and specification on operating and maintenance procedures shall be governed, as between Signatories, by the provisions of the Agreement on Technical Barriers to Trade."

30. There are other references to services in the MTN Agreements. For instance, under the Agreement on Implementation of Article VII of the GATT the cost of certain services complementary to the goods may be included in the basis for customs valuation. This basis will be raised if obstacles to trade in these services raise their price above the level that would prevail under conditions of free competition. The Agreement on Technical Barriers to Trade provides for most-favoured-nation treatment and national treatment in the area of testing for conformity to standards (Article 5).

31. At the end of the Multilateral Trade Negotiations the CONTRACTING PARTIES decided that the Inventories of Non-Tariff Measures established in the negotiations should be up-dated. A number of notifications relating to services have already been made.

32. The previous paragraphs have show that certain obligations negotiated in the framework of GATT prohibit certain measures affecting services or lay down conditions for their use. If such obligations are breached, contracting parties may have recourse to Articles XXII of the General Agreement or the corresponding provisions of the relevant MTN Agreements, providing for consultations with respect to any matter affecting the operation of the Agreement in question. Contracting parties might also have recourse to Article XXIII or to similar provisions in MTN Agreements if they considered that nullification or impairment had occurred.

33. It is also possible that a contracting party could bring an action (under Article XXIII:1(b)) in respect of a measure adversely affecting the performance of a complementary service "whether or not it conflicts with the provisions of this Agreement" or under Article XXIII:1(c) which refers to the existence of "any other situation" since the existence of measures adversely affecting the performance of services which are essential complements to trade in goods could clearly have a harmful effect on that trade. It is generally recognized that only in particular circumstances can actions be brought in respect of measures which do not conflict with the provisions of the General Agreement, but this is perhaps the sort of case that the drafters of the Article had in mind.

34. The reasons why techniques for negotiations on services should be discussed in the GATT are, by now, clear, although it should be equally clear that discussion of these techniques does not prejudge the question as to whether such negotiations would be held. Trade in goods which are simply physical supports for services may increase as a result of increased demand for the services themselves. Measures

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[4] In evaluating the long-term adequacy of premium rates, costs and losses of insurance programmes, in principle only such contracts shall be taken into account that were concluded after the date of entry into force of this Agreement.

[5] An original signatory to this Agreement shall mean any signatory which adheres ad referendum to the Agreement on or before 30 June 1979.

[6] "Other charges" shall have the same meaning as in Article II of the GATT.

adversely affecting services which are essential complements to trade in goods automatically have an effect on trade in goods and can bring it to a complete halt: not all of these services are at present dealt with in the GATT. Obstacles to trade in services which are substitutes for trade in goods can lead to an increase in merchandise trade but do not necessarily lead to a better allocation of resources.

35. Given the similarities between measures affecting services and measures affecting goods, the obvious question is whether existing commitments could be extended to services. International obligations relating to trade in goods which are embodied in basic provisions of the General Agreement, such as the most-favoured-nation clause, nondiscrimination, national treatment and the negotiability of import duties and other charges, thus appear relevant to trade in services and it is likely that they could, mutatis mutandis, be extended to such trade. The General Agreement contains certain modifications to these principles, which were made necessary to make them applicable to particular aspects of trade in goods. Similarly, existing commitments would no doubt need to be modified in a number of respects in order to affectively cover relevant services.

ACTIVITIES OF OTHER ORGANIZATIONS IN THE FIELD OF SERVICES

NOTE BY THE SECRETARIAT

1. This note has been prepared as a follow-up to the discussion on international trade in services held in the Consultative Group of Eighteen at its meeting of 25–27 March 1981. A preliminary account of the work of other organizations in this area was given in document CG.18/W/45, circulated at the Group's meeting of 30–31 October 1980. This report updates, so far as possible, the information contained in that document. It summarizes the main relevant aspects of activities as well as the issues under consideration in such work. It covers some organizations not dealt with earlier, including non-governmental organizations, to the extent that their activities have special relevance to the subject at hand. It does not claim to be exhaustive, however: activities related to the services sector are gaining momemtum in many different fora, and information is not available on all of these at the present stage.

2. For ease of reference, organizations are classified as "A. Governmental" and "B. Non-Governmental" and are listed in alphabetical order under each of these headings.

A. GOVERNMENTAL COUNCIL OF EUROPE

3. In January 1981, the member States of the Council of Europe adopted a Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. Its purpose is to secure the right of privacy of individuals with regard to automatic processing of personal data relating to them ("data protection"), both in the public and private sectors. The Convention contains a chapter on transborder data flows which provides that, except where equivalent protection is not available in the country of destination or, if this country is not a signatory where the transfer would result in circumventing the legislation of the originating country, "a party shall not, for the sole purpose of the protection of privacy, prohibit or subject to special authorization, transborder flows of personal data going to the territory of another Party.". The Council may invite non-member States to accede to the Convention.

4. The Council has undertaken detailed studies of developments in civil aviation in 1973 and 1976, with special emphasis on relative pricing of scheduled and charter services.

INTERGOVERNMENTAL BUREAU FOR INFORMATICS (IBI)

5. The Intergovernmental Bureau for Informatics, which has evolved out of the International Computing Centre set up by the United Nations Economic and Social Council (ECOSOC), became an autonomous body in 1974. In 1978, it convened the first Intergovernmental Conference on Strategies and Policies for Informatics (SPIN I) which was held in Torremolinos, Spain. A second intergovernmental conference on the same theme will be held in Havana, Cuba, in June 1983 (SPIN II). The ECOSOC adopted at its second regular session of 1981 a resolution (E-RES/1981/52) in which it recommends that member States "collaborate in the preparatory activities and the achievement of the objectives" of this conference.

6. A number of regional conferences are being held in 1981–1982, followed by a world conference in October 1982, in preparation for SPIN II. They will deal with various aspects of informatics, i.e. in education, in industry, teleinformatics, etc.

SPIN II is expected to devote particular attention to the impact of transborder data flows on the international division of labour and technological concentration. In this context it is expected to deal with various aspects of international cooperation in fields such as the development of technological capacities and infrastructures, the content and use of information, access to information and the protection of individual privacy.

INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

7. The 1944 Chicago Convention establishing ICAO provided certain rights for non-scheduled air services covering overland flight and landing (the so-called "first and second freedoms" of the air) and, subject to the conditions imposed by the contracting party concerned, the taking on and discharging of passengers, cargo or mail ("third and fourth freedoms"). The Convention establishes the principle of non-discrimination for the freedoms granted as well as for any right to operate inland services ("cabotage") which a country may grant foreign aircraft. In addition, it provides for the application of national treatment in respect of the use of all air navigation facilities and of charges for such facilities and for the use of airports. Other relevant provisions of the Convention are as follows:

(1) No fees, dues or other charges may be imposed solely in respect of the right of transit over or entry into or exit from a contracting State's territory:

(2) No customs duty may be charged on aircraft in transit or on spare parts and equipment imported for incorporation into such aircraft;

(3) Aircraft in transit and parts thereof are also exempted from seizure on patent claims;

(4) To the extent possible, each State must provide air navigation and communications facilities in accordance with the standards and practices recommended or established pursuant to the Convention;

(5) Mutual recognition of certificates of airworthiness and certificates of competency and licenses for personnel which conform to minimum standards established pursuant to the Convention;

(6) International Standards and Recommended Practices, in addition to the above, are adopted by ICAO in respect of other aspects of air navigation. Departures from such standards are to be notified to ICAO.

8. The International Air Services Transit Agreement signed at Chicago in December 1944 provides for the mutual granting among signatories of first and second freedoms for scheduled services, the exercise of these privileges to be in accordance with the Chicago Convention.

9. At its first and second Transport Conferences held in 1977 and 1980, ICAO recognized the need to re-evaluate regulatory policies in air transportation in the light of developments since the establishment of the Chicago Convention. Panels of experts have been established to study the adequacy of the Convention's provisions relating to non-scheduled services, capacity and airline tariffs in present-day traffic conditions. It is expected that reports of panels of experts will be transmitted through the ICAO Council to the third ICAO Transport Conference to be held in 1983. Airport and en route facilities have also been discussed in a special ICAO conference on this subject held in the spring of 1981.

INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO)

10. The main concern leading to the creation of the Inter-Governmental Maritime Consultative Organization was a desire to improve safety at sea. IMCO has developed a number of International Conventions on this subject, including two International Conventions on the Safety of Life at Sea. The second of these, which entered into force on 25 May 1980, has been amended by a Protocol which entered into force in May 1981. IMCO has also been active in the prevention of marine pollution. The Oil Pollution Convention was adopted as far back as 1954, but IMCO has produced a whole series of Conventions on this subject following the Torrey Canyon disaster of 1967. It has also dealt with questions of legal liability which arise if incidents occur at sea, relevant agreements including the International Convention on Civil Liability for Oil Pollution Damage. Of more direct relevance to trade in services is IMCO's work on facilitation, which led to the adoption of the Convention on Facilitation of International Maritime Traffic in 1973. IMCO has also adopted numerous Resolutions, mainly on technical subjects, and has technical assistance programs (financed by UNDP) in the areas of safety administration, pollution, harbour administration and the development of maritime administration and legislation.

INTERNATIONAL MONETARY FUND (IMF)

11. The provisions of the Articles of Agreement of the IMF relating to restrictions on payments for current transactions apply equally to payments for goods and for services. Limitations on the use of the Fund's resources for capital transfers (Article VI) do not apply to "capital transactions of reasonable amount required . . . in the ordinary course of trade, banking, or other business".

12. Since August 1979, Fund members' receipts from travel and workers' remittances will be included at the option of a member in the calculation of export shortfalls for purposes of the Fund's compensatory financing facility if, in the opinion of the Fund, adequate data are available.

INTERNATIONAL TELECOMMUNICATION UNION (ITU)

13. The on-going activities of the ITU in developing worldwide electromagnetic equipment compatibility and conventional establishment of international telecommunication services where this would be impeded by protracted competition over standard characteristics. On-going technical work on the allocation of radio frequencies and of frequencies for sound and television satellite broadcasting, as well as on the development of radio, telegraph and telephone communication also aims to provide the technical base for increasing the efficiency and usefulness of telecommunications services and "making them, so far as possible, generally available to the public", which is one of the purposes of ITU.

ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD)

14. At its meeting at Ministerial level on 16–17 June 1981, the Council of the OECD "welcomed the increased attention given within the Organization to the service sector in view of the important role played by services in Member countries' national economies and international trade. They recalled that the principles and objectives concerning the liberalization of international transactions contained in the OECD Convention and referred to in the Declaration on Trade Policy of 4 June 1980 covered the exchange of services as well as of goods. Ministers expressed the wish that the on-going OECD activities in the field of services be carried forward expeditiously. They agreed that, in the light of the results of these activities, efforts should be undertaken to examine ways and means for reducing or eliminating the identified problems and to improve international cooperation in this area".

15. The work undertaken by various OECD Committees in the field of services combines the examination of problems common to a number of service industries and more specific approaches to problems particular to individual service industries.

16. The work programme framed in the OECD Trade Committee aims in its first phase at identifying and analysing existing obstacles in construction-engineering and consultancy services, banking, insurance and maritime transport. A general evaluation of this work is due to take place in the autumn of 1981. This Committee has also encouraged OECD member countries to contribute to a general inventory of trade barriers in services. Furthermore, it envisages the development of a set of general objectives which could provide overall guidance for OECD work in the area of services, including objectives for possible future international negotiations.

17. Preliminary results of a survey of obstacles and problems conducted in respect of trade in construction-engineering and services shows that one problem classified by respondents as "important" in both OECD and developing country markets is that of subsidies; other problems ranked "important" in developing country markets are taxation, market access, government procurement and personnel regulation. Further work is proceeding on the analysis of responses to the OECD survey.

18. The issue of liberalization of international service operations is also being looked at in relation to the OECD Code of Liberalization of Current Invisible Transactions, both in general terms, in the context of an on-going revision of the code, and in specific terms, with regard to different service sectors. Initially, attention is being given to maritime transport and insurance (a Working Group on the Liberalization of Insurance has been established). Problems of establishment and market entry in the service sector are being examined in the context of work related to the OECD Code of Liberalization of Capital Movements.

19. Future work is envisaged on country exceptions to national treatment in the context of the application of the OECD Guidelines for Multinational Enterprises, adopted in 1976, with particular reference to the service industries.

20. Regulations affecting international banking operations are under constant review in the Financial Markets Committee, whose findings concerning eight OECD Member countries were published early in 1981 uder the title "Regulations affecting international banking operations of banks and non-banks". The Committee has

asked a Group of Experts of the Business and Industry Advisory Committee (BIAC) to prepare a report on obstacles to international banking operations.

21. A study of "Competitive policy in regulated sectors", with special reference to banking, shippiing and energy was completed in 1979 by the Committee of Experts on Restrictive Business Practices. On this basis, the OECD Council adopted a Recommendation to OECD Member Governments on Competition Policy and Exempted or Regulated Sectors, calling on governments to review their regimes to see whether the same objectives could not be reached with less regulation or with a more extensive application of competition policies and competition laws.

22. Transborder data flows have received particular attention in the Committee for Scientific and Technological Policy, which has established a Working Party on Information, Computer and Communications Policy dealing with the effects of regulation on international telecommunications services, with legal aspects of flows of non-personal data and with ways of reconciling the protection of individual privacy with the need to avoid creating barriers to international data exchange. A High-level conference on Information, Computer and Communications Policies (ICCP) was held in Paris in October 1980 to discuss proposals for a research programme on non-personal data flows. Also in October 1980, the OECD Council adopted a Recommendation to Governments containing Guidelines Governing the Protection of Privacy and Transborber flows of Personal Data which provides, *inter alia*, that Member countries should avoid developing laws and regulations which would create obstacles to transborder flows exceeding the requirements for protection of privacy. At its September 1981 meeting, the ICCP discussed a proposal to organize a workshop on "Changing Market Structures in International Telecomunications Services: The Impact of New Technologies and of Service Liberalization", which might be held in 1982.

23. The Tourism Committee at its July 1981 meeting decided to undertake a survey of obstacles to tourism in the OECD area.

24. Other activities envisaged in various OECD Committees would aim at improving the functioning of national markets for services, notably by furthering structural adjustment policies appropriate for this sector.

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

25. The Convention on a Code of Conduct for Liner Conferences drawn up by the UNCTAD Committee on Shipping and opened for signature from 1 July 1974 to 30 June 1975 had been accepted by 51 countries, representing 21 percent of world tonnage, as of 1 September 1981. The Convention will enter into force six months after the date on which not less than 24 States with a combined tonnage amounting to at least 25 percent of world tonnage have become contracting parties to it. One group of States have announced that in their case ratification of the Convention would be subject to the non-application of its Articles 2 (Participation in Trade), 3 (Decision-Making Procedures) and 14(9) (minimum period of time between general freight-rate increases) among themselves and, on the basis of reciprocity, vis-a-vis other OECD countries. However, the Convention would be applied in its entirety in relations with non-OECD countries.

26. The UNCTAD Committee on Shipping, at its Third Special Session held from 27 May to 6 June 1981, adopted by majority vote (49 for, 18 against and 3 abstentions) Resolution 43 (S–III) on Open-registry fleets, calling for the gradual and progressive transformation of the present regime of open registries ("flags of convenience") into one of normal registries of ships in the country of ownership. The Resolution also recommends the convening in 1982 of a preparatory group to propose a set of basic principles concerning the conditions upon which vessels should be accepted on national shipping registers, with a view to establishing an international agreement on this subject. The absence of unanimity in adopting the Resolution was due to differences of views concerning the desirability of concluding an international legally-binding instrument to determine the economic elements of a "genuine link" between a vessel and the flag state in which it is registered, as well as the adequacy of imposing such an economic link requirement to solve the problems of open registry.

27. With regard to merchant fleet development in developing countries, Resolution 42(IX) adopted by the Committee on Shipping at its ninth session in September 1980, notes in a preambular paragraph the aim of developing countries to acquire a minimum of 20 percent of the world deadweight tonnage by the end of the 1980's. It provides, *inter alia*, for the convening of a group of experts to study the problems faced by developing countries in the carriage of bulk cargoes. The group is to report in the second half of 1981 on whether, in the light of responses to a questionnaire, the operations of major importers and exporters of iron ore, phosphate rock and

bauxite/alumina place any barriers to the ability of the shipping lines of any developing country to compete freely and fairly in these dry bulk markets. A similar examination may be carried out later in relation to hydrocarbons.

28. At its ninth session, in September 1980, the Committee on Shipping also adopted (with one abstention) Decision 37(IX) on part congestion surcharges which aims at rationalization of such surcharges through consultations between shipping lines and shippers' organizations.

29. The Convention on International Multimodal Transport adopted in May 1980 will enter into force 12 months after 30 States have become contracting parties to it by definitive signature, ratification or accession. At the present time only six States have signed the Convention.

30. Questions relating to marine insurance are under consideration in the Committee on Shipping's Working Group on International Shipping Legislation, which holds its eighth session on 12-30 October 1981. The Working Group is mainly concerned with developing standard marine insurance clauses as non-mandatory international models.

31. Other aspects of UNCTAD work on insurance have been handled by the Committee on Invisibles and Financing related to Trade (CIFT), which held its ninth session in September–October 1980. The objectives of this work, as defined by the UNCTAD secretariat (see Report of CIFT on the ninth session, TB/B/833, paragraph 3), are (a) to assist developing countries to establish or strengthen their national insurance markets; (b) to promote regional cooperation among developing countries and (c) to improve the terms and conditions of those insurance and reinsurance services that still have to be purchased internationally. The main aspects of insurance examined by the Committee are loss prevention in fire and marine cargo insurance, crop insurance and reinsurance of developing countries and regional and national insurance goods.

32. The Committee on Invisibles and Financing related to Trade (CIFT) also initiated, with the assistance of an intergovernmental group of experts, a study of the possible operational features of a proposed international Export Credit Guarantee Facility. The main objective of the facility would be to provide a medium for discounting export credit paper issued by developing countries, which presently face refinancing difficulties on international capital markets.

UNITED NATIONS CENTER ON TRANSNATIONAL CORPORATIONS (UNTC)

33. The Centre on Transnational Corporations has given consideration to the socio-political and economic aspects of transborder data flows.

UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (ECE)

34. The Economic Commission for Europe, through its Working Party on Facilitation of International Trade Procedures, has devoted attention to regulations restricting automatic transmission of trade documentation and is trying to develop a standard for automatic trade data exchange. The ECE's Inland Transport Committee studies on a continuous basis the problems of rail, road, water and multimodal transport, as well as more specific transport problems (dangerous goods, perishable foodstuffs, containers) from the standpoints of technical coordination, standardization and trade facilitation. Work on the latter subject is primarily concerned with the alignment of trade documents and systems for automatic trade data interchange.

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

35. On-going activities of WIPO relating to the protection of industrial property include, in addition to promoting acceptance of existing international treaties, the examination of the feasibility of an international treaty on the protection of computer software and of better contractural arrangements for the protection of inventions made by joint enterprises. Also being pursued are the improvement of patent information and classification and the development of registration and classification of trademarks for goods and services and of industrial designs.

36. The second session of the Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property is being held in Nairobi, Kenya, from 28 September to 24 October 1981. One of the objectives of the revision is to change certain provisions to meet better the needs of developing countries as regards access to patented knowledge.

37. In the filed of copyrights, WIPO has devoted attention to the relationship between copyrights and computers, to remedies against various forms of piracy of

intellectual property and to improving the protection of works of folklore against abusive exploitation.

38. Concerning the acquisition of technology and access to works protected by copyright, especially for developing countries, WIPO has edited a Licensing Guide for Developing Countries which serves as a basis for workshops and seminars on the subject. It is also planned to establish a joint UNESCO-WIPO service for facilitating developing countries' access to works protected by copyright.

WORLD BANK GROUP

39. Project financing by World Bank and its affiliate the International Development Association (IDA) in services industries involves the provision of technical assistance for management of the facilities and infrastructure established with Bank/IDA lending and for improvement of the institutional framework for the industries concerned. For instance, in the field of international shipping Bank staff advise recipient countries on such items as lease and charter contracts, ships registration, and safety inspection procedures. Port projects also involve advice on the setting of port charges and assistance in the understanding of the pricing mechanism by which port authorities can recover their costs and encourage efficient use of their facilities.

40. The International Finance Corporation (IFC), another affiliate of the World Bank, invests in the services sector from time to time. Most such investments have been in the tourisn sector, where the IFC has participated in hotel projects. The IFC has also been active in providing assistance to develop capital markets in developing countries. This involves the establishment of the legislative and regulatory environment and the identification of needed institutions.

41. On a more general plane, the World Bank has an on-going programme of work on international trade in services and on developing countries' involvement in this area, as well as sector studies, which contain statistical and technical information on the operation of the markets concerned.

WORLD TOURISM ORGANIZATION (WTO)

42. The WTO studies on a continuing basis developments and problems in the tourism sector from the standpoints of market trends, transportation, travel plant and services and tourism product marketing. Among the problems under consideration are air transportation services and fare structures, measures to facilitate tourism traffic, and tourism protectionist policies tending to reserve a share of total tourist expenditures to the host country. The problems of developing exporting countries, in particular with regard to air transportation and product distribution (activities of tour operators) are receiving particular attention.

B. NON-GOVERNMENTAL—INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

43. Since 1978 IATA, the world organization of the scheduled airlines, divides its activities into Trade Association activities concerned with technical and legal aspects of air transport, and Tariff coordination activities which include the coordination of fares, rates and charges and levels of commission on sales. The latter are established in Traffic Conferences in which participation is optional.

44. The central issue confronting IATA in recent years has been the challenge by some governments to the approach to tariff coordination traditionally pursued in IATA traffic conferences. Other issues with which IATA has been concerned include fuel pricing practices and taxation, and government charges for the use of air navigation and ground facilities.

45. The high-level IATA/International Chamber of Commerce Contact Committee established in 1978 has held several discussions on international aviation regulation and commercial issues. Recently, talks have focussed on the potential application to air transport of multilateral concepts such as those embodied in GATT. The Committee has agreed to establish a working party to identify problems that might be amenable to multilateral solutions as well as possible mechanisms for the implementation of multilateral agreements to deal with them.

INTERNATIONAL CHAMBER OF COMMERCE (ICC)

46. The ICC held a Round Table on liberalization of services in June 1981, to which participated representatives from a number of intergovernmental organizations, including GATT. While welcoming the work presently being carried out in certain sectors or within certain regional organizations, participants recognized that

when the negotiating stage had been reached, the most appropriated forum for comprehensive liberalization of services trade would be the GATT.

47. In October 1981, the ICC is issuing a Statement on Liberalization of Trade in Services which recommends the extension of GATT to include trade in services, and urges governments to begin preparations towards multilateral negotiations to reduce impediments to such trade.

Senator INOUYE. What industries will be covered in your cross-functional analysis?

Mr. SELF. The airline industry, the insurance industry, the banking industry, the shipping industry, the construction and engineering industry, telecommunications, and tourism. Those are the principal ones, but there are others.

Senator PRESSLER. The movie industry.

Mr. SELF. The movie industry.

Senator INOUYE. Some have suggested that improving our statistics may just backfire on us because it may indicate that we're doing exceedingly much better than we thought we were doing and thereby, reducing any incentive for our trading partners to negotiate under.

Do you have any fear of that?

Mr. SELF. No, I don't because our trading partners, I think, once they get an idea of how the statistics affect them, would find that services trade probably means more in their economy than they realize.

My feeling about the examination of statistics is that it's terribly useful, not only from the standpoint of becoming aware of where your strengths are and what it means to your economy generally, but hopefully, it would at some stage become relatively sophisticated such that you could identify trends in the same way that you do for manufacturers; that your banking industry, for instance, has over the last year or over the last 5 years regressed rather than expanded their activities.

This is a good measure upon which you can have discussions under arrangements that hopefully will exist some day governing services sectors. This is the same thing that we do with trade statistics for manufacturers and for agriculture commodities and that is why it's so important for those elements.

I can see it used in the same way, although, as I think I indicated to the chairman, I don't see that statistical information will ever be as precise for services as it is for manufacturing and agriculture.

So to me it's a very important process. I think we have to take into account its limitations.

Senator INOUYE. Members of one industry have indicated to me some concern about concentrating all negotiating authority in your office; to be specific, they are members of the airline industry. They seem to be pleased with the representation and assistance they received from the State Department. What are your thoughts?

Mr. SELF. Well, the USTR's strength in terms of being the principal negotiating agency is that, beginning with the mandate given to us by Congress, which goes back to 1964, we have served, I think, as a catalytic agent within the executive branch. We are not, for instance, at least institutionally, an advocate. We are an agency that is structurally geared to take into account the views of everyone. We become, I think, a very useful broker. We are staffed in that way.

I think that by itself gives us some strength. And in the last analysis, the reflections of the USTR in a negotiating forum are the result of a very careful interagency process.

So I think in answer specifically to your question, that the eventual negotiating objectives, let's say in the case of airlines, as reflected by USTR, take into account the very well-known expertise that's held by the Department of State and other agencies. That's where I think our strength is. It's never pluperfect, but I happen to think that the sort of mandate that the USTR has is a very useful one in terms of communicating with the private sector.

But that's not to say that any number of agencies have valuable expertise and are going to make major contributions to any number of these services sectors. It will always be that way and it always has been as long as I've been in trade policy because of the nature in which USTR is established.

Senator **INOUYE**. Thank you very much. Mr. Chairman, I have several other questions that I would like to submit for response.

Senator **PRESSLER**. Without objection, it is so ordered.

And may I add to Senator Inouye's fine question an example of our airlines industry. I gave a speech in the Senate on Thursday, September 10, about our international carriers about how much money we're losing and how generous we are in our agreements.

For example, if one of our flights lands in London at the airport there, we're charged $8,000 for a landing fee during a peak hour. In comparison, the average landing fee at a U.S. airport is currently $400, although we charge a bit more than that at our big ones.

But we're the good guys in international trade as far as the airlines are concerned. And that carries over into the banking industry. It carries into a lot of other areas. If there is no objection, I would like to submit this speech about how much Braniff, Continental, Delta, Flying Tigers, Northwest, Pan-Am, TWA, and Western—all except TWA—lost last year in their international operations. It's really a sad story.

Also, many foreign carriers are state-owned carriers and are getting 6 percent loans from international organizations that we are supplying with money.

So we've got to start thinking about protecting or getting reciprocity. And I hope that our trade negotiators will look into this airline situation, or we're not going to have international carriers in just a few more years.

[Information referred to follows:]

[From the Congressional Record, Sept. 10, 1981]

SENATE

U.S. INTERNATIONAL AIR CARRIERS—A CRITICAL JUNCTURE

Mr. PRESSLER. Mr. President, I wish to bring to the Senate's attention the plight our country's international air transportation system. As chairman of the Business, Trade and Tourism Subcommittee, I am certainly aware of the importance of international tourism in our international trade balance.

I have most recently become acquainted with the particular financial difficulties of Pan Am Airlines and TWA. However, this is definitely an industrywide problem. All of the long haul U.S. international carriers suffered hardship in 1980, as indicated by the following Civil Aeronautics Board (CAB) figures:

International operating profit (loss)

[Calendar year 1980]

Carrier:	
Braniff	($63,518,000)
Continental	(14,579,000)
Delta	(6,975,000)
Flying Tigers	(3,692,000)
Northwest	(46,130,000)
Pan Am	(44,641,000)
TWA	5,504,000
Western	(12,867,000)
Total	(186,868,000)

The five major carriers alone suffered over $150 million in operating losses on their international routes during the past year.

The seriousness of these problems stretch far beyond the individual air carriers. While the carriers employ tens of thousands of personnel, there are also aircraft manufacturers and other vendors of aviation-related supplies and services affected by this problem. Currently, U.S. carriers account for less than 10 percent of the total intercontinental wide-body aircraft on order.

We must also remind ourselves that the balance of trade is being adversely affected. Every percentage point of United States-Europe traffic, for example, is worth approximately $47 million in revenue, and each percentage point of trans-Pacific market share is worth approximately $24 million in revenue. However, in recent years the U.S. carriers' share of the international markets has been declining, with adverse consequences to the U.S. balance of payments.

While fuel costs and the state of the economy must be cited as part of the cause of these international aviation problems the problem is really compounded by Government actions in past years. Perhaps we need to better understand the nature of international air transportation and recognize the differences between domestic and international marketplaces.

In understanding the critical differences between domestic and international markets, we must address the "open skies" policy initiated in the past 4 years. While the "open skies" policy is an attempt to certificate the maximum number of carriers and promote free competition, we must make sure that we are not overlooking the specific problems of our U.S. carriers. Foreign government support of their own carriers and denial of market access to U.S. carriers often make it difficult for the U.S. carriers to compete. The "pooling" agreements for the joint operation of services and allocation of revenue is also a competitive advantage for the foreign airlines.

Another issue of great concern to U.S.-flag international carriers is the exorbitant landing fees our carriers must endure at international airports. The landing fee for a 747 air carrier at the London Heathrow Airport is currently set at $8,000 during a peak hour. In comparison, the average landing fee at a U.S. airport is currently $400.

In addition, the international carriers are also faced with en route charges or navigation charges. Pan Am Airlines reports that such fees average $35 million annually and have been increasing on an average of 25 percent per year.

Mr. President, I believe that the U.S.-flag carriers are at a critical juncture. The Federal Government must be more responsive to the problems faced by these carriers. As the Senate debates the sunset of the Civil Aeronautics Board, the National Tourism Policy Act, the airport development aid program, and other legislation affecting the balance of trade and air transportation, I suggest that we recognize the problems of international carriers. While these carriers are not seeking a bailout, they do expect us to understand the complexity of the international environment. U.S. international carriers need our support in order that they may return to a position of competitive strength.

Senator **Pressler**. Also, I should say that earlier this year we passed in this committee and it was signed by the President, the International Investment Survey Act, to try to find out what is happening in terms of investments in our banks and so forth. And as has been pointed out so well, it's much easier to open a branch in the United States than it is abroad. Of course, we don't want to put prohibitions on that are unnecessary. So we've really got to look at this because I believe in the next 10 or 20 years, international trade, whether it's in agriculture or tourism or the service industries, is going to make a difference in terms of the standard of living we have. We've been rich enough that we haven't had to work at it so much and we're going to have to start understanding and working at this whole issue of international trade. That's much more complicated than it appears.

Do you have any comment on this international air carrier problem? What will you be doing about this at the GATT meeting?

Mr. SELF. Well, I don't know that that would specifically come up in the GATT Ministerial since the topics that ordinarily are raised are somewhat more generic.

On the other hand, the example that you gave, affecting the airlines, represents to me the sort of urgency that is absolutely essential to arrive at understandings, whether they're bilateral understandings, whether they can be established multilaterally at this stage.

But it's that kind of example that can seriously affect the economic health of an industry, and I think we all know that the airline industry is not in very good health right now, for any number of good reasons, which is the reason that I don't think that those of us engaged in trade can sit back and say, well, it's going to take 8 years or it's going to take 5 or 4. These are immediate problems. They have to be faced now.

So if my statement conveys a sense of urgency about that, it's designed to. I just don't think that we can wait to work through these processes in such a rational way that within 10 years, everyone will theoretically be happy to sit down to a bargaining table. We're going to have to push on our side. We are the country that has instigated this process and we're going to continue to.

I guess the only caveat I would add is that we have to bear in mind that if other countries simply aren't ready for any number of reasons to sit down and talk, well, then, we're not going to have a very meaningful discussion.

In the last analysis, however, we have to think about actions that would reflect U.S. sovereignty in this area. We can't just simply sit and wait for an agreement to be reached in certain situations. And that's something that we have in mind as we go through this process.

Senator INOUYE. Mr. Chairman, I think you brought up something that oftentimes is overlooked. Before going to my question, I would like to express my pleasure at the sense of urgency which I note in your statement, sir.

Does your office take into consideration certain realisms of this day? For example, in the airline industry among the major countries, our airlines are the only ones that are wholly privately owned airlines. All other airlines are either wholly owned by the Government, partially owned, or heavily subsidized, which right off the bat places our airlines at a grave disadvantage, whether it be in negotiation of landing rights, et cetera.

Is that taken into consideration?

Mr. SELF. Yes, it is. It's something that is currently on the minds of the USTR. It's looked upon, frankly, as an immediate problem in the airline sector. It's conceivably a timetable that may foreshadow the other process that I went through in my testimony; that is, what can we do about a distorted practice that is specifically identified as unfair in international law?

The GATT is very specific about these things.

Senator **Inouye**. Is your office called upon for matters like Eximbank?

Mr. **Self**. Yes, it is.

Senator **Inouye**. What is your position on the Eximbank?

Mr. **Self**. The USTR effort generally has been part of the effort to bring interest rates that are established by Government financial institutions somewhat more in line with commercial reality. I think you've undoubtedly read a good deal about this just in the last few weeks.

I think our basic endeavor has been to bring into reality the fact that some of the interest rates charged by some of the Government lending institutions, especially those in Europe, are unreasonably low. It's been our effort to see that those rates are brought into a more realistic number, considering the current global financial situation.

Senator **Inouye**. Have you been successful?

Mr. **Self**. We've been relatively successful. I would not say that it's been a complete success. But recently, at the OECD, which is the principal multilateral forum in which this issue is discussed, there was a general agreement to raise the interest rate 2½ points.

So there is progress in that area.

Senator **Inouye**. You're still at a disadvantage as far as we're concerned.

Mr. **Self**. Yes, I think, generally speaking, that we are at a relative disadvantage. Our Eximbank, as you know, does not have the level of appropriations that would allow it to expand its activities, and the terms at which it makes loans are somewhat higher in some situations than those by other Government lending insitutions. That is specifically the problem for the sector that you mentioned.

Senator **Inouye**. Thank you very much. Thank you, Mr. Chairman.

Senator **Pressler**. Thank you very much. We will call on our next witness, but I wanted to say that I do want to, for the record, straighten out the differences in the Commerce Department figures and your figures on our international trade current account. I don't want to belabor this, but for the record, if you would submit this. They tell me that for the merchandise trade sector, we have agricultural exports of $41.8 billion, manufactured exports of $182 billion. Total merchandise trade exports of $224 billion.

The agricultural export surplus is $24.4 billion and the total merchandise export deficit is $25.3 billion. So we're making up with agricultural exports what we're losing on manufacturing.

But on services trade exports, we have, according to their figures, $120 billion total exports, $36 billion surplus. You suggest, I think, a $16 billion figure, roughly.

Mr. **Self**. No, I think I said a total export volume of $60 billion.

Senator **Pressler**. $60 billion. Oh, I see, yes.

Mr. **Self**. Yes, $60 billion.

Senator **Pressler**. Do you agree with that $36 billion?

Mr. **Self**. I did not reflect on what the estimated balance is. I don't think that the study went into that with precision. The amount that I provided was $60 billion. That comes from the study that was recently issued in August. That's the source of that figure.

Senator **Pressler**. Yes.

Mr. **Self**. So whatever the Commerce Department reflects could be an analysis further to that and I think that that could shed further light on this. It's a complicated issue and one that has a number of variables. They obviously have the manpower that can best determine these figures.

Senator **Pressler**. Yes, thank you very much. I'll now call on Bill Edgar from the Department of State. Let me say if Senator Inouye is agreeable, and if the staff finds it necessary or suggests it, there could be perhaps a third half-day of hearings sometime with the airline industry and movies and others that might be useful. Perhaps we can have them submit written testimony or perhaps we could work them in tomorrow in some instances. We'll see how it goes.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. How will changes in the Foreign Corrupt Practices Act improve our services trade?

Answer. Although the Act was well intended, the business community has cited the FCPA as one of our most signficant export disincentives. It is difficut to decipher, hard to implement, and its ambiguity has bred confusion for both business people and regulators. As a result, exporters tend to "play it safe" and by-pass legitimate business opportunities which Congress never intended to curtail.

Clarification of the anti-bribery provisions of the FCPA will enable our service industries, such as the construction/engineering industry, to have a clear view of what the requirements and responsibilities are in dealing with local business and government entities. As it now stands, the FCPA does not provide such a view. In addition, the cost of complying with the accounting and record keeping requirements of the Act places an excessive burden on all publicly held companies regardless of whether or not they make foreign sales.

Internationally, countries have resented inferences of immorality implicit in the FCPA. U.S. embassies in the Middle East, for example, have reported that most of our allies there find the FCPA offensive and have pursued alternative trade possibilities with Western Europe, Japan, and Eastern bloc countries. Strategically, the FCPA has tarnished the United States' image in areas of the world which directly affect U.S. national security and future supplies of oil.

Question. You testified that trade negotiations in the services area will require years to complete. What can be done in the meantime to improve our trade position?

Answer. There are basically two things we can do in the meantime to improve our trade position on services. First, we must work to remove domestic export disincentives. The three disincentives most frequently cited are the taxation of Americans working abroad, the Foreign Corrupt Practices Act (FCPA) and U.S. anti-trust policies in the area of export trade. The problem of taxation has been alleviated as a result of President Reagan's tax package and efforts are presently underway in the Congress to amend the FCPA and to establish Export Trading Company legislation which would solve the problem of anti-trust barriers to export trade.

Secondly, we must make every effort to attempt to satisfactorily resolve Services trade problems on a case by case basis through bilateral channels. We have committed ourselves in our work program on services to actively pursue bilateral trade problems brought to our attention by the private sector. We have carried out that commitment by providing constructive assistance to everyone who has come to us for help and our assistance has provided a basis for concrete progress in a number of bilateral issues. Most recently, for example, we were able to resolve an insurance problem with Jamaica. Three U.S. insurers requested U.S. Government assistance when they were informed by the Jamaican insurance superintendent that they would be required to localize (51 percent Jamaican ownership) within a matter of weeks. We pursued this problem with Jamaican officials and shortly thereafter received word from the Prime Minister's office that while Jamaica encourages localization, forced-localization is not the policy of the Seaga government, nor would it be pursued in the case of the three U.S. insurers.

Bilateral discussions have also been invaluable in significantly reducing barriers to trade in insurance involving Korea. Through the provisions established under Section 301 of the Trade Act of 1974, as amended, we entered into formal bilateral consultations with the Korean government in order to discuss restrictive and discriminatory insurance regulations regarding U.S. insurers established in Korea. The basic problem was that the Korean government would not allow U.S. insurers to expand the scope of their operations, but instead restricted them to the selling of a single line of insurance. After a series of consultations, the Koreans agreed to more fully accept U.S. competition in the Korean insurance market.

Question. Do you foresee multilateral negotiations opening up government procurement of services?

Answer. I would expect that future multilateral negotiations on services would address the issue of government procurement practices pertaining to services. Many U.S. service industries consider discriminatory government procurement practices to be a major problem and have asked that we give a good deal of priority to this issue in future negotiaitons. We intend to do so. How we might approach this issue remains to be decided. As you know, the GAT Code on Government Procurement, while only covering services which are instrumental to the purchase of goods, does call for a review of the Code with the expressed purpose of considering the full incorporation of services. This review will be due in 1982. The extension of the Government Procurement Code to services is one possible approach to reducing discriminatory government procurement practices in services.

Senator PRESSLER. Bill Edgar.

STATEMENT OF WILLIAM H. EDGAR, ACTING DEPUTY ASSISTANT SECRETARY FOR TRADE AND COMMERCIAL AFFAIRS, DEPARTMENT OF STATE

Mr. EDGAR. Thank you, Mr. Chairman. I have a brief statement which I would like to summarize. If you have no objection, I would like to submit the full text of the statement for the record.

Senator PRESSLER. Without objection, it is so ordered and if you could summarize, we'd much appreciate it.

Mr. EDGAR. Thank you.

We agree fully with the assessment that you made in your opening remarks about the importance of services for our national economy and the very important role that they play in our balance of payments in helping to redress the deficits that we're experiencing in the area of manufactures.

We feel that our competitive position, the competitive position of U.S. service industries, remains the strongest in the world. But we also agree with you that the facts show that our share is declining. Other major industrialized countries are experiencing the same sort of sectoral shift toward becoming service economies that has been occurring here over the last several decades. And some of the advanced developing countries such as Singapore, Korea, Mexico, have become serious competitors to us in certain areas of services industries.

It is our view at the Department of State that we cannot afford to be complacent about this, that services are too important for our economy and for our balance of payments. We therefore support the aims and objectives of the Service Industries Development Act.

In my comments, I'd like to focus my attention on two of your objectives, which are to promote free trade in services and to use the full resources of the U.S. Government to obtain reciprocal rights and benefits for U.S. traders and investors.

As far as the resources that we at the State Department are committing to the services area, if we look at the recurrent bilateral problems that occur in services, we are devoting more time and more resources to this area. This is done through my office, the Office of International Trade, and other parts of the Economic and Business Bureau of State, working with Commerce and the U.S. Trade Representative. We also draw on our regional bureaus, on the regional economic offices of the regional bureaus, and our country desks and, of course, our ambassadors and our economic and commercial sections overseas, who work together in dealing with such issues as efforts to open up the Korean market for American insurers or trying to deal with Canadian discriminatory taxes against American advertisers on radio stations, or telecommunications problems and other bilateral services issues.

We are also devoting more time and attention to the complex issue of trying to strengthen the ability of the multilateral trading system to deal with services. It has been said in earlier testimony here that there is a lack of an international body of rules and procedures to apply to services. The GATT has focused largely over the last 30 years on trade and goods. The issue of services was addressed in the Tokyo round in the multilateral trade negotiations, but the results were very limited.

Since the Tokyo round, work on issues related to services has continued in the OECD. So far this has been largely limited to the collection of data on obstacles and other problems. The OECD has been concentrating on four sectors—insurance, banking, maritime transport, and construction engineering.

A very important impetus to the OECD's work was made at the ministerial meeting of the OECD Council last June, where the member governments agreed to move beyond simply gathering data and to examine the ways and means for reducing or eliminating the identified problems and to improve international cooperation.

This obviously implies that they are beginning to look toward an eventual international negotiation on services.

Services will be addressed in the study which the OECD Secretary General is conducting on trade issues for the 1980's which will be submitted to the OECD Council next spring. And we also expect, and hope, that services will be high on the agenda of the GATT ministerial meeting in the fall of 1982.

Now in our view, this does not mean that a major round of trade negotiations on services is right around the corner. It will take time to build an international consensus on the objectives and modalities of such a negotiation.

First of all, the data available on services is in many cases incomplete and we were glad to see that your proposed legislation addresses the need for better statistical information.

Secondly, we will have to determine, along with our trading partners, whether we can simply apply to services the rules and procedures which have been developed for trade in goods or whether we will need new rules and procedures specifically designed to deal with services problems.

And we'll also have to decide whether to take a sector-by-sector approach to these negotiations or an across-the-board approach.

Certain problems, for example discriminatory public procurement or restrictions on the right of establishment, may be common to several services sectors. On the other hand, it may not be possible to deal with such diverse activities as architecture, accounting, motion pictures, and insurance within the compass of the single negotiation.

As we and our trading partners begin developing possible approaches to these international negotiations, there's one sector which we feel deserves priority attention. And that sector is data processing and telecommunications. The new technologies in this area are becoming, in effect, the lifeblood of the international economy. Multinational firms are increasingly dependent on the rapid, unrestricted flow of computerized information for their daily operations. This is true not only in obvious cases such as banks and travel agencies and transportation companies, but also for manufacturers who rationalize production or inventories on a worldwide basis, or engineers who will use data processing facilities in order to develop the specifications for a construction project halfway around the world.

While the international flow of computerized information is by and large unrestricted at the present, there are a number of reasons why countries might want to impose restrictions. These range from what we would consider legitimate reasons, such as the protection of personal privacy or national security, to pure protectionism. The cost to the world economy of barriers in this area, in the area of information flows, would be enormous. And it is that potential cost which is one reason why we believe this sector deserves urgent attention.

Another is the fact that so many of the other service sectors, such as banking, insurance, transportation, tourism, depend so heavily on telecommunications and data processing and data banks. Work done to remove a barrier in, say, banking could quickly be undone if we don't pay attention to a barrier that exists in the area of information.

We're addressing these issues in the OECD's working party on information, computer and communications policy. We feel that the work that the OECD is doing is a valuable educational process which will demonstrate the complexity of the issues as well as the heavy costs of restrictive measures.

In this area, as in services generally, we're still not close to moving into a general international negotiation, but the sort of consciousness-raising that Mr. Self mentioned is particularly important in this area, as it is in other areas. We feel that while the process of moving toward an international negotiation is a complex one and is not going to happen overnight, the problems in services are very urgent and we are not waiting for a multilateral negotiation to deal with them. We will be dealing with them as we go along as a matter of bilateral negotiation between us and other countries.

To conclude, Mr. Chairman, I would like to reiterate my Department's support for the aims and objectives of your proposed legislation. We share your assessment of the importance of services, and we would welcome an active service industries development program in the Department of Commerce.

For our part, we will continue to participate actively in the interagency committees that develop U.S. policy on trade and services, committees that are chaired very effectively by the Office of the U.S. Trade Representative. Through that framework, we and the other agencies will deal with bilateral problems resulting from the restrictive policies of other countries and we'll take on the challenge of developing a multilateral approach to services trade.

Our efforts to remove existing trade barriers and to prevent the imposition of new ones will not in themselves insure that our service industries maintain their competitive lead in international markets. But it is our strong view that we will not be able to hold onto that lead unless our efforts to keep the system open and to remove barriers are successful.

Thank you.

Senator PRESSLER. Thank you very much. I understand that Assistant Secretary of Commerce Waldmann has just arrived and he has a time problem. So I shall ask you one or two of my questions and then put the rest for the record, if that's agreeable.

Do you have specific statistics to support your statement that our share of the global market for services has been declining?

Mr. EDGAR. My statement is based on one of the studies that was prepared under a contract by the Department of State and Commerce and USTR, which was prepared by Economic Consulting Services and was published earlier this spring.

Their statistics show that the terms of trade that we and other industrialized countries are experiencing in the services area have been shifting in favor of other industrialized countries. We still have a leading position in our terms of trade, but our balance has weakened over the past several years, according to this study.

Senator PRESSLER. You mentioned that the data processing and telecommunications sector needs urgent attention. In this regard, you noted that the OECD working party will be exploring problems in this area. Is there anything that you could suggest which Congress might do to fulfill the urgent need for attention to which you referred?

Mr. EDGAR. Well, we feel that in terms of the way in which the Government is organized to address these issues, the present process of addressing them on an interagency basis with ourselves and the U.S. Trade Representatives and the Commerce Department is working satisfactorily.

So from an organizational point of view, I don't think any new steps are needed in this area.

I think we would be interested in exploring this question of reciprocity, of strengthening our ability to take reciprocal action when it's appropriate in order to deal with barriers that other countries have imposed.

We have section 301, which is, of course, available to people who want to raise specific complaints and problems. But it's possible that the authority for reciprocal action could be strengthened.

Senator PRESSLER. Thank you very much. I have about four other questions which I will submit to you for the record.

Mr. EDGAR. Thank you.

Senator PRESSLER. Senator Inouye?

Senator INOUYE. Thank you very much. I presume that this statement represents the official view of the State Department.

Mr. EDGAR. That's correct, sir.

Senator INOUYE. I ask this question because it wasn't too long ago, at a time when the Russians were opening their 27th overseas tourist office, the State Department recommended we close up the remaining 6 U.S. offices we had overseas.

Mr. EDGAR. That was a State Department recommendation?

Senator INOUYE. Together with the Commerce Department and the administration. How do you view tourism, that service?

Mr. EDGAR. I consider tourism a very important service. I suppose the question is the cost effectiveness of having government tourist agencies.

Senator INOUYE. The benefit-cost ratio was 19 to 1.

Mr. EDGAR. Well, I would say that that was an impressive cost ratio.

Senator INOUYE. So you do support tourism now?

Mr. EDGAR. I certainly support tourism. I would say that the question of how we can best organize our activities overseas to increase tourism—how much that depends on official U.S. Government activities or how much we can rely on the private sector to do this—is another question. But certainly, I consider tourism a very important service.

Senator INOUYE. About 2 years ago, the Federal Maritime Commission, as a result of enactment of certain laws by this Congress, decided to call upon the Soviet Union, their shipping companies, to comply with the provisions of the antirebate laws. You're certainly aware of these laws.

In the United States, it is against the law to give or receive anything under the table on shipping. And when we brought suit against the Soviet Union, the State Department immediately entered the proceeding as amicus curiae, opposing the action taken by the FMC, thereby making the law a farce. The only people who could get convicted are Americans.

What is your position on that?

Mr. EDGAR. Senator, this is not a case in which I have been directly involved. I would be glad to provide a reply to that for the record.

[The following information was subsequently received for the record:]

The Department of State endorses full and fair enforcement of U.S. laws designed to curb rebating. The Department has actively assisted the Federal Maritime Commission in carrying out its resonsibilities under these laws and will continue to do so in the future.

Senator INOUYE. How large is your operation, sir?

Mr. EDGAR. The Office of International Trade has 30 people, including 20 professionals.

Senator INOUYE. The rest of the State Department, is it very sensitive to your activities?

Mr. EDGAR. Yes. I would say, yes, definitely. I think this sensitivity, if anything, has grown over the past year. Secretary Haig is devoting more attention to the economic side of the State Department, and specifically to trade issues, than some of his predecessors. As you may know, he testified on trade earlier this year, which is something that hasn't been done by a Secretary of State for some time.

Senator INOUYE. My perception and my impressions may be all faulty, but somehow, I seem to gather the impression, at least in the past, in all administrations, whether they be Democratic or Republican, that we have in this Government certain agencies that promote trade, services, and otherwise; but quite often, the State Department will step in and almost serve as a friend of the adversary because "we don't want to make waves."

Is that a fair perception?

Mr. EDGAR. I wouldn't agree with that perception, Senator. We, like you, are aware of the very great importance of trade and other international economic activities to this country, and that our economic strength is a key factor in our overall political military position in the world.

And that for that reason, we feel that it's very important to promote American trading interests in the world so that we can maintain and strengthen our trading position. Perhaps this is a realization that is becoming a little clearer as the importance of our international economic activities becomes clearer.

But I would say that at the present time, the interest of our Department is in promoting our trading interests and our other international economic interests overseas. We try to do this to the extent possible in cooperation with our trading partners. But our objective is not to be helpful to the foreigners, but to be helpful to our own people.

Senator INOUYE. One final question, Mr. Chairman, and I have several I'd like to submit. At the present time, because of provisions in the law strongly endorsed by the administration, a lot of the assistance products, foreign assistance programs, are carried on foreign bottoms. What are your thoughts on that?

Mr. EDGAR. Again, Senator, this is not a subject in which I have direct knowledge, but would be glad to submit my Department's thoughts for the record.

Senator INOUYE. The State Department is in charge of the foreign assistance program. Don't you get a little queasy to have a Communist country carrying our foreign aid abroad?

Mr. EDGAR. Speaking personally, I'd rather see it being carried by one of our own ships.

Senator INOUYE. What about another little item such as carrying mail across the Atlantic Ocean? Our mail, incidentally, is open for bid. At the present time, a Polish liner carries our mail to NATO.

Mr. EDGAR. Again, Senator, it's a subject where I would need to give you a statement for the record.

Senator INOUYE. All other countries, if they do have ships, insist that their mail be carried on their bottoms. Apparently, the United States is the only exception. Would it be wrong if we insisted that our mail be carried on our ships?

Mr. EDGAR. Senator, I would prefer to answer this for the record. I'm not directly involved in that particular issue.

Senator INOUYE. Why the hesitation, sir?

Mr. EDGAR. Why the hesitation? Because I'm——

Senator **Inouye**. I may be a bit naive. I just can't understand why we can't carry our mail from here to Europe on our ships. These Polish ships, incidentally, and the Soviet ships are not private enterprise ships. I'm sure you know that.

Mr. **Edgar**. Yes.

Senator **Inouye**. They can always underbid us.

Mr. **Edgar**. Well, I don't know the reason for this and I will look into this.

[The following information was subsequently received for the record:]

The Department of State naturally supports full compliance by federal agencies with existing cargo reservation legislation, e.g., PR-17 and PL-664. The future of cargo preference, including its application to foreign aid and postal cargoes, is one of the subjects under study in the Administration's maritime policy review.

Senator **Inouye**. Thank you very much.

Senator **Pressler**. Thank you very much.

Mr. **Edgar**. Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF WILLIAM H. EDGAR, ACTING DEPUTY ASSISTANT SECRETARY FOR TRADE AND COMMERCIAL AFFAIRS, U.S. DEPARTMENT OF STATE

I would like to thank you for this opportunity to discuss a subject of growing importance to the U.S. economy and to the strength of our position in international trade.

The vital role of service industries in our domestic economy—which you have highlighted in Section 2 of the Services Industries Development Act (S. 1233)—has been well documented. So has the positive contribution that U.S. service industries have been making to our balance of payments. A recent study[1] commissioned by the Departments of State and Commerce and the Office of the U.S. Trade Representative shows that our "services balance" (excluding investment) has improved steadily from a deficit of $225 million in 1960 to a surplus of $6.6 billion last year. By comparision, our merchandise trade moved from a surplus of $4.9 billion to a deficit of $27.4 billion during the same period.

Thanks to the abundance in this country of specialized technology and professional expertise, the overall competitive position of U.S. service industries remains the strongest in the world. We cannot take this lead for granted. Other major industrialized countries are experiencing the same sectoral shift toward a "service economy" that has occurred here. Some of the advanced developing countries—Singapore, Korea—have become serious competitors in certain areas. Our share of the global market for services has been declining. We cannot afford to be complacent.

The Department of State therefore supports the aims and objectives of the Service Industries Development Act, which is designed to enhance the competitive position of American service industries in world markets. I would like to focus particular attention on two of your objectives, which are to promote free trade in services and to use the full resources of the U.S. Government to obtain reciprocal rights and benefits for United States traders and investors.

Since the early postwar period, we have worked successfully with our trading partners to develop a body of international rules and procedures which apply to trade in goods. These have contributed to the maintenance of a free and open multilateral trading system which has, in turn, been a key factor in the dramatic growth of world trade. For the most part, however, these rules and procedures have not been applied to trade in services. Although U.S. negotiators tried to raise services questions toward the end of the Tokyo Round of multilateral trade negotiations, the results were limited.

Since the Tokyo Round, work on issues related to trade in services has continued in the OECD. So far, this has been largely limited to the collection of data on obstacles and other problems encountered in international services trade. So far, the OECD has been concentrating on four sectors: insurance, banking, maritime transport, and construction engineering.

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[1] Economic Consulting Services Inc., The International Operations of U.S. Service Industries: Current Data Collection and Analysis (June, 1981).

Further impetus to the OECD's work was provided by the ministerial meeting of the OECD Council last June, where member governments agreed to move beyond data-gathering on services and to "examine ways and means for reducing or eliminating the identified problems and to improve international cooperation." Services will be included in a study which the OECD Secretary General is preparing on trade issues for the coming decade—a study which will be submitted to the OECD Council next spring. We also expect that services will be high on the agenda of the GATT Ministerial scheduled to take place in the fall of 1982.

All this activity does not mean that a major round of trade negotiations on services is around the corner. It will take time to build an international consensus on the objectives and modalitities of such a negotiation. First of all, the data available on international services is in most cases incomplete and in many cases seriously inadequate. We are glad to see that the Services Industries Development Act is addressing the need for better statistical information. Secondly, we will have to determine wheteher we can simply apply to services the rules and procedures which have been developed for trade in goods. For example, can we use GATT's nontariff barrier codes or will new rules and procedures be required? We also need to decide whether to take a sector-by-sector or an across the board approach. Certain problems (for example, discriminatory public procurement or restrictions on the right of establishment) may be common to several services sectors. On the other hand, it may not be possible to deal with such diverse activities as architecture and accounting, motion pictures and insurance, within the compass of a single negotiation.

As we and our trading partners begin developing possible approaches to internation negotiations on trade in services, there is one sector which deserves priority attention—data processing and telecommunications. The new information and communication technologies are not only revolutionizing our daily lives; they are becoming the lifeblood of the international economy. Multinational firms are increasingly dependent on the rapid, unrestricted flow of computerized information for their daily operations. This is not only true in obvious cases: banks, travel agencies, transportation companies. It is also true for manufacturers who rationalize production or inventories on a worldwide basis, or for engineering firms which use data processing facilities in one corner of the world to develop specifications for a construction project in another.

While the international flow of computerized information is, in most cases, unrestricted at present, there are a number of reasons why countries might want to impose restrictions—ranging from legitimate concern for national security or the protection of personal privacy to pure protectionism. The cost to the world economy of barriers to the free flow of information would be enormous.

The potential cost is one reason why we believe this sector deserves urgent attention in our work on trade in services. Another is the fact that so many other service sectors—banking, insurance, transportation, tourism—depend heavily on telecommunications, data processing and data base services. Work done to remove a barrier in, say, the banking sector could be quickly undone by a restriction on information flows.

We are addressing these issues in the OECD's Working Party on Information, Computer and Communications Policy. An experts' group of that Working Party is studying how information flows affect the structure, operation, and decision-making procedures of international firms. Over the next several months, this group will also be studying legal issues arising from international information flows. We regard this work as a valuable educational process, which will demonstrate the complexity of the issues as well as the heavy costs of restrictive measures. As we proceed, we are staying in close touch with Congressional staffs, and—through the State Department's Business Advisory Committee—with the private sector.

To conclude, Mr. Chairman, I would like to reiterate my Department's support for the aims and objectives of your proposed legislation. We share your assessment of the importance of services in our national economy, and your concern for the international competitiveness of American service industries. We would welcome an active service industries development program in the Department of Commerce.

For our part, we will continue to participate actively in the interagency committees that develop U.S. policy on trade in services—committees that are chaired effectively by the Office of the U.S. Trade Representative. Through that framework, the U.S. Government will deal with bilateral problems resulting from the restrictive policies of other countries, and will take on the challenge of developing a multilateral approach to services trade. Our efforts to remove existing trade barriers and to prevent the imposition of new ones will not, in themselves, ensure that U.S. service industries maintain their competitive lead in international markets. We will not be able to hold on to that lead, however, unless those efforts are successful.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR CANNON AND THE ANSWERS THERETO

Question. Which do you feel would be preferable—a sector-by-sector approach or an across-the-board approach in negotiating a multilateral agreement on trade in services?

Answer. We have not yet decided on what approach would be most appropriate for negotiating a multilateral agreement on trade in services.

While we recognize the importance of services issues and have committed ourselves to pursuing work within the US and with our major trading partners, our knowledge of the structure of the industries and the major issues is still limited.

The United States has compiled an inventory of services barriers and is completing two major statistical studies on service industry structures and the role of services in international trade. We have also written a number of sector papers which we have presented at the OECD. The OECD is preparing additional sector papers on specific services industries.

These studies have been useful and educational but they have not yet produced a clear indication on how we should proceed on negotiations—i.e., whether to use a "vertical" (sector) approach, or a "horizontal" (barrier) approach. One methodology may prove to be most pragmatic, or we may want to use a mixed approach. We are continuing to examine this question, both within the US Government and with our trading partners in the OECD.

Question. What results were achieved in the services area at the Tokyo Round of Multilateral Trade Negotiations?

Answer. The Trade Act of 1974 expanded the definition of US Commerce to include trade in services. Section 102 of that Act authorized the President to negotiate non-tariff agreements covering trade in services in the Tokyo Round.

In response to the Congressional mandate, US negotiators raised a number of service trade issues in the negotiations. Some progress was made.

A number of service issues related to trade in goods are covered under the codes on government procurement, product standards and subsidies. The government procurement code opens up to competitive bidding most contracts let by governments for production on non-strategic goods. The rules and procedures outlined in the code currently cover services to the extent that they are incidental to procurement of goods and do not exceed the value of the goods being purchased. The subsidies code established an improved discipline over subsidization of exports. To the extent that subsidies benefit services used in the production of exported goods, they are covered by some of the code provisions. The code on standards establishes rules and procedures for minimizing distortions to trade resulting from the application of standards. It includes a provision which establishes international recognition of testing results certified by national laboratories. Each of the non-tariff codes calls for a review of the code in three years. The Government Procurement Code contains an explicit reference to the consideration of possible extension of the code to trade in services more generally.

Most importantly, as a result of our efforts on services in the MTN, we received a commitment from our major trading partners to study trade problems in services and to begin laying the groundwork for future negotiations. While no groundwork has been laid, the subject of trade in services has been under discussion in the Trade Committee of the OECD.

Senator **PRESSLER**. I next call upon Assistant Secretary Waldmann, Department of Commerce.

STATEMENT OF RAYMOND J. WALDMANN, ASSISTANT SECRETARY OF COMMERCE FOR INTERNATIONAL ECONOMIC POLICY

Mr. **WALDMANN**. Thank you, Senator. With your permission, Senator, I'd like to summarize the written statement which I have and have that included in the record.

Senator **PRESSLER**. Without objection, it is so ordered, and we always appreciate your summarizing your major points.

Mr. **WALDMANN**. Thank you.

Mr. Chairman, as you may know, I've testified before this and other congressional committees on the service issue for several years, both in a Government capacity and a private capacity, because I believe the service industries represent a critical part of our domestic economy and they are an important part of our international presence.

The Commerce Department supports the goals and objectives of the Service Industries Development Act. The bill appropriately assigns to the Department the role of lead agency for developing, implementing, and coordinating policies to enhance the competitive position of the service industries.

We already have authority to operate in many of the areas which are specified in the bill and I won't take time here to catalog those activities. In one area, however, in the area of improving our data collection services, specific statutory authority might be needed and we are now in the process of determining whether that would, in fact, be the case.

One of the first things I did upon taking office at the Commerce Department was to restructure our resources in the service area and to establish a new Office of International Services. This office, by the way, has a staff of 22 people and its mission is to target resources on certain sectors of high priority, to look at the bilateral relationship in the service area with certain key countries, Japan and Mexico and Canada being the three most important ones, to integrate services into our broader policy analyses, to attempt to resolve specific complaints that companies may bring to us where a foreign country is involved, to promote service issues through an active outreach program, and last, to improve Department coordination on service issues, particularly in data development, promotion, and representation abroad.

We have established in the Department a task force on services which I will chair and the first order of business of that committee task force is to review two recently completed reports by private consultants on improving data collection in the service area.

My statement addresses a few of the administration's general policies in the economic and trade area and their impact on the service industries. I'll just summarize by saying that we believe that the changes in the tax laws, the proposed changes in the Foreign Corrupt Practices Act, the new legislation which we support to establish export trading companies, will all benefit service industries as well as manufacturing industries.

We are, of course, vigorously protesting the efforts of other countries to subsidize credits and our efforts, I must say, have proven fruitful.

On October 7, we agreed with 20 industrial nations through the OECD to increase interest rates for export credits by over 2 percent and I received word this morning on the way to this hearing that the Japanese have accepted the consensus arrangement, the compromise consensus arrangement, on increasing the export credit subsidy.

So we will have a higher minimum for those export credits.

In dealing with foreign trade barriers which restrict the operation of U.S. service industries, we find basically four different types of barriers that we have to deal with: Arbitrary and discriminatory licensing procedures; foreign government regulations; currency restrictions of various types; and the application, perhaps in discriminatory ways, of domestic regulations.

We are within the administration, as you well know, bringing to bear a lot of attention to these issues. Our objective is to develop internationally agreed upon rules and discipline for trade in services. In the OECD, we are introducing a series of sectoral papers in the OECD Trade Committee. Papers on insurance, on engineering and construction, telecommunications, data processing, have been submitted. And others will follow over the next 6 months.

The OECD is also preparing an important study on key trade issues for resolution during the 1980's and the service industries will be among the issues discussed in that OECD report.

But the OECD is not a trade negotiating forum. We expect that more specific negotiations will be conducted within the GATT and we hope that the agenda for the ministerial meeting now scheduled to take place in November of next year, 1982, will include and will initiate a work program specifically aimed at liberalizing services trade.

In all of these efforts, I think the United States is challenging the international community to be bold and imaginative in dealing with service issues. We know that the problems are important, but we don't have all the answers. One of the major issues that we are addressing is how we can suggest both a conceptual framework and a series of procedures for dealing with these issues in a workable way that will include not just the developed countries, but also the emerging, developing countries who are becoming important service providers.

Lastly, we are very much concerned that while these multilateral efforts are underway, we not neglect our bilateral issues. We can give greater attention and we are giving greater attention to sector-specific bilateral arrangements with our major trading partners and we are quite concerned that other countries should recognize the need to open their economies to service industries, particularly recognizing the principle of reciprocity in access to markets.

I'll be glad to answer any questions you may have, Senator. I just want to take this opportunity to commend your committee for its efforts to focus attention on the importance of service issues and to address the need for adequate resources in the Federal Government to address them.

Thank you.

Senator **Pressler**. Mr. Waldmann, I have a few questions, both to ask you and to put in the record, and Senator Inouye has been briefly called away. He will have some questions for the record, I believe.

Let me ask you about the thing we brought up earlier regarding financial services, banking. You're in the Department of Commerce which is our lead agency in this area. What about the financial services, the reciprocity in banking? If it's easier for a Japanese bank to open a bank here than it is for an American bank to open a branch there, what should we do about that?

Mr. **Waldmann**. Well, I believe that it is encumbent on us first to do what we can to open up the Japanese market, access to the Japanese market. We are tackling that problem specifically through a joint Commerce-MITI committee called the Trade Facilitation Committee, and that Facilitation Committee will be tackling specific problems of access—in fact, it has been tackling problems of access for manufacturers. We have asked that any American companies, whether they're exporters or service industries, who have problems of gaining access to the Japanese market, to let us know what their problems are so that we can deal with them in the context of the Trade Facilitation Committee.

The virtue of that of course is that you're dealing with specific industry, specific problems and you may be able to get a positive answer. In fact, in 19 of the 22 cases which we have raised with the Japanese, we have gotten positive answers and we're about to begin in the next few weeks another round of discussions on specific cases.

There's no reason why we could not address service industries in general and financial industry problems in particular in that forum.

Senator **Pressler**. I guess the same is true of the insurance industry, the telecommunications industry, information services, financial services, transportation, and, as I mentioned, the airlines. I don't think you were here. I inserted a speech that I gave on the Senate floor regarding the airlines industries. The landing fees are a classic example of that.

Mr. **Waldmann**. Yes.

Senator **Pressler**. Our carriers are charged as much as $8,000 for landing at foreign airports and we charge very little compared to that. Our average fee is about $400, but it can go up to $1,000 or more.

But relatively speaking, we're the good guys in terms of these areas, whether it's transfer of technology, reciprocity, and so forth. The whole service industry area has been neglected, whereas in manufacturing we frequently seek reciprocity. But I don't think that we've done that in the service industry area so much. I don't always think we've done it in the agricultural area. That's another question.

But can we expect some new initiatives from your office in this area?

Mr. **Waldmann**. Well, I think, as I said in the statement, in targeting both specific countries and specific sectors for priority attention, we are determined to make an effort to deal with these on a bilateral basis, where possible, without waiting for some more general understandings on the principles and concepts on a broader framework, which we think the OECD and GATT will deal with.

So the answer to your question is yes.

Senator **Pressler**. It is a well accepted idea that lesser developed countries tend to favor more protectionist approaches to international trade. Do you feel that there are currently enough nations with well developed service sectors to insure international support for multilateral systems for resolving service trade disputes?

Mr. **Waldmann**. I'm not sure that there is, frankly. The fact that we have a highly developed service industry is a reflection of the fact that other countries don't. And they would not necessarily see the negotiations in the same light that we would.

Even in specific sectors where we've had discussions, such as in the insurance sector, there has not yet developed a consensus that something needs to be done in a multilateral framework.

I hope that through these careful and well documented and supported efforts that we're undertaking in the OECD and the GATT, and through continued discussions conducted by USTR, State, and ourselves, that we will begin to develop a consensus that there is something in a service trade liberalization for everyone.

Senator **PRESSLER**. Thank you. I have additional questions, as does Senator Inouye, which will be submitted to you by the staff for answering, and we thank you very much.

Mr. **WALDMANN**. Thank you very much.

[The statement follows:]

STATEMENT OF RAYMOND J. WALDMANN, ASSISTANT SECRETARY OF COMMERCE FOR INTERNATIONAL ECONOMIC POLICY

I am pleased to appear before the Committee to give the Department of Commerce views on S. 1233, the Service Industries Development Act, and to discuss our approach to services trade issues.

As you know, I testified before this and other congressional committees on services prior to joining the Reagan Administration in my present position. I continue to believe that the services industries represent a critical part of our domestic economy and that their competitiveness must be enhanced at home and abroad.

We have recently estimated that services activities, including exports and income from overseas affiliates, amounted to over $128 billion in 1980—and that doesn't include services performed by companies known primarily as manufacturers.

The Commerce Department supports the goals and objectives of the Service Industries Development Act. The bill appropriately assigns to the Department the role of lead agency for developing, implementing and coordinating policies to enhance the competitive position of the service industries. This recognizes that the issues affecting the vitality of service industries in our domestic economy cannot be separated from factors affecting their international competitiveness.

Although we already have authority to operate in many of the areas specified in the bill, budget constraints limit the extent of our activities. I won't take the time here to catalog these activities, but would be happy to make the details available to the Committee.

Specific statutory authority might be needed to improve our ability to collect services data. However, we are in the process now of determining what might be needed.

When I took over as Assistant Secretary for International Economic Policy, one of my first tasks was to review our existing international services program—to assess its strengths and weaknesses. As a result, we have combined the resources of our International Services and Foreign Practices Divisions into a new Office of International Services.

We are developing in this new Office an aggressive, goal-oriented program to reduce barriers and disincentives which limit the competitiveness of U.S. service firms in their international operations through: targeting resources on certain sectors—insurance, telecommunications and information services, financial services, transportation and engineering and construction; targeting on certain countries—Japan, Mexico and Canada (special bilateral relationships), newly industrialized countries (Brazil, Korea, etc.) and others where major sectoral problems or opportunities exist; fully integrating services into broader policy analysis in the areas of taxation, antitrust, transfer of technology, reciprocity, commercial treaties and other agreements, etc.; resolving specific bilateral complaints involving any country where U.S. firms are having problems; promoting services issues through an active outreach program; and improving Department coordination on services issues, particularly data development, export promotion, and representation abroad.

I would like to emphasize that a major responsibility of the new Office of International Services is to represent our services firms abroad in problems they are having with foreign governments. Utilizing the Department's Foreign Commercial Service, we are ready to bang on government doors to assure that U.S. firms get a fair shake.

Top Commerce Officials, from Secretary Baldrige down, are willing to raise issues with their foreign counterparts to promote our services trade.

We have also just established in the Department a Task Force on Services, which I will chair. The first order of business will be to take up the two recently completed reports by private consultants (sponsored by State, Commerce and USTR) on improving services data. We will focus on the recommendations of the Sammons/Lederer report to identify those specific actions we can initiate within our present authority to make better use of the reporting systems we already have in place.

In connection with the Reagan Administration's comprehensive review of U.S. maritime policy, I am coordinating an interagency study on U.S. options with regard to the UNCTAD Liner Code. We expect to complete the study in early November.

We have also just launched a study by a private contractor to help us determine the impact of information flows on the competitive position and operations of U.S. service firms internationally. We are concerned about the damaging effects that restrictions on such flows might have on these firms. The results of the study should be useful in underpinning similar work underway in the OECD and other organizations.

In April, the Reagan Administration announced a comprehensive strategy for reducing obstacles to services exports—including heightened use of bilateral arrangements for resolving trade problems, removal of export disincentives, preparations for multilateral trade negotiations, review of reciprocity provisions in domestic legislation, and development of adequate statistics.

Enactment of the Reagan tax package has changed our tax laws so that U.S. services companies are no longer penalized for the use of Americans in their overseas operations.

We are supporting changes in the Foreign Corrupt Practices Act to remove ambiguities and reduce unnecessary paperwork costs. This should be especially beneficial to our firms providing construction, engineering and related services.

Our banking and antitrust laws should be changed to permit the establishment of export trading companies. This would permit services firms to jointly pursue foreign business opportunities they might otherwise pass up or lose because of foreign competition.

While working to eliminate the export disincentives, we must also deal with the foreign subsidies and trade barriers which limit U.S. competitiveness abroad.

One of the major concerns of U.S. service industries is the subsidies provided by foreign governments to national or local firms affecting business in third country markets. These markets, often in developing countries, represent a substantial amount of current activity and future growth.

This subsidization takes many forms—including direct and indirect financial assistance, tax breaks, and government risk-sharing.

The Reagan Administration has vigorously protested subsidized credits and pressed other governments to adjust interest rates upwards. Our efforts have now proven fruitful, with 20 industrial nations informally agreeing on October 7 to increase their interest rates on export credit by over 2 percent. We are awaiting only the concurrence of the Japanese Government to make this agreement effective, and hope this will happen before the end of the month.

Other forms of subsidization are very hard to deal with. They are often an integral part of domestic economic or industrial policies and reflect basic philosophical differences between countries, depending on the extent to which they rely on free market forces. Future international negotiations will be needed to set some limits on the use of these devices, because of the distorations they can create in goods and services trade.

Foreign trade barriers which restrict the operation of U.S. service companies abroad are numerous. Arbitrary and discriminatory licensing procedures are particularly damaging to our insurance companies. Foreign government regulations to control international information flows may seriously affect the international competitive position of our telecommunications and information industries, particularly at a time when new tenchnologies are expanding the range of information services available.

Currency restrictions, including limits on capital transfers, profit repatriations and foreign currency exchange and the discriminatory application of domestic regulations are just a few additional examples of the barriers to trade in services which U.S. and foreign firms must face.

One of the major weaknesses in the international trading system, at the present time, is that there are no specific multilateral rules and discipline to resolve trade problems in the services sector as a whole, or in most individual sectors.

One of the major initiatives of this Administration has been to bring the services question to center stage in the international trading community. Our objective is to develop internationally agreed-upon rules and discipline for trade in services.

The scenario for the 1980's involves the OECD, GATT and other specialized international agencies. The question is how best to advance the liberalization of trade in services through these or other institutions.

The OECD is preparing an important study on key trade issues for the 1980's. Services will be included.

The United States is introducing a series of sectoral papers into the OECD Trade Committee and the relevant special committees. Drafted in consultation with industry representatives, these papers will serve as a starting point for developing international understanding of the problems each sector faces and, hopefully, will lead to concensus on how to deal with them. Papers on insurance, engineering and construction, and telecommunications, data processing and information were submitted this month. Others will follow, over the next six months.

Of course, the OECD is not a trade negotiating forum. However, if we could come to some agreement on principles, on a sector-by sector basis or applicable to services generally, this could serve the basis for broader negotiations in the GATT.

Within the GATT, the United States is pressing to have services added to the agenda of the ministerial meeting, which will take place in November, 1982. The objective would be to initiate a work program specifically aimed at liberalizing services trade.

We have really just begun the dialogue with our services industries and trading partners. Frankly, we don't have all the answers.

We are challenging the international community to be bold and imaginative in taking up services issues. Our approach is to lay out on the table in the OECD, GATT and any other appropriate forum what we know about the problems of these important, dynamic industries—many of which ride on the leading edge of technology—and to suggest conceptual frameworks for resolving them.

We also haven't lost sight of the fact that a very important factor in the services equation is the role of the developing countries. In many cases, it is their markets which offer the prospect of substantial future gowth. At the same time, these markets are often the most restricted.

We hope the developing countries will recognize that it is in their own self-interest to participate in the development of international rules and discipline. Some of the more-advanced among them already have important service export sectors. They will also benefit from an open market in services trade.

Since it will take time to develop the international consensus required for meaningful negotiations, we should not hesitate to revise our own trade and other legislation to ensure that our service firms receive reciprocal treatment abroad.

Generally, reciprocity should be a significant factor in determining whether foreign firms will participate in our regulated industries—such as telecommunications, transportation, banking and insurance.

In addition to our multilateral efforts on services issues, it seems to me that greater attention should be given to the possibility of sector-specific bilateral arrangements with some of our major trading partners.

As a starting point, we have an opportunity to work through the Executive Committee of the United States-Japan Trade Facilitation Committee, for example, to examine the problems of a selected U.S. service sector in gaining more open access to the Japanese market. Principles of access developed here might be applicable to situations prevailing in other countries and form the basis for broader international agreement.

The United States is in the vanguard of seeking international solutions to the problems faced by services industries in their foreign operations. We have traditionally been a major force for liberalization of trade in goods. It is equally appropriate that we spearhead the drive for liberalization of trade in services.

The issues are complex and, in many respects, the terrrain is unfamiliar. However, we have made a good start.

I want to take this opportunity to commend your committee for its efforts to focus attention on the importance of services issues and the need for adequate resources to address them.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. You mentioned that budget constraints are limiting the scope of your activities in the services area. Could you give us a brief rundown on what has happened with the budget of the International Trade Administration this year?

And could you also outline what portion of that budget is devoted to work on services? I believe you said that you now have an Office of International Services.

Answer. ITA does not yet have final fiscal year 1982 appropriations. We anticipate however, operating our basic programs with about the same level of resources as in fiscal year 1981. That means that the International Services programs—operated by the new Office of International Services—should have a staff of about 23 and approximately $1.1 million in funding; that is, the same levels contained in our original fiscal year 1982 request to the Congress.

Question. What is the relationship between the Office of International Services and the U.S. Trade Representative? Do you coordinate attempts to solve trade conflicts through bi-lateral talks?

Answer. ITA's working relationship with USTR is very close on all issues which touch on international business, and Office of International Services staff are in close touch with USTR staff in formulating our services trade policy positions. Bilateral country problems tend to be handled more usually in ITA because of the operational responsibilities of our policy and country specialists. According to an Office of International Services compilation, there are about forty services country problems currently being handled in ITA. But, both agencies are alert to taking advantage of travel by top officials to raise bilateral services problems with host countries.

Question. It is a well accepted idea that lesser developed countries tend to take more protectionist approaches to international trade. Do you feel that there are currently enough nations with well developed services sectors to insure international support of a multilateral system for resolving services trade disputes?

Answer. It is probably premature to attempt to judge the number of nations which would be supportive of a multilateral system for resolving services trade problems. Facilitation of international exchanges of services is an important topic which will in time engage the attention of an increasing number of nations. But, at the moment, we are in the opening stages of attempting to develop better information on world trade in services and to identify problems in common. We need to do a good deal of homework with our trading partners before we can move into discussing the shape of multilateral cooperation and assessing the degree of support.

Question. On page 11 of your written statement you say that we should not hesitate to make legislative changes to ensure reciprocal treatment. Could you please expand on this? Do you have some specific suggestions?

Answer. My point is that the U.S. marketplace tends to be more open than those of most countries as, for example, in the fields of banking, insurance, aviation, shipping, and telecommunications. We should continue to support a liberal trading environment for both goods and services. But, if in the longer run, we have little success in gaining access to overseas markets, we should consider taking selective action based on reciprocity for our services industries. In the case of some services; that is, banking, insurance, the cooperation of State authorities will be necessary.

QUESTIONS OF SENATOR CANNON AND THE ANSWERS THERETO

Question. Would S. 1233 provide the specific statutory authority the Department needs to improve its ability to collect services data?

Answer. The language in the bill is clear and probably adequate for the collection of data by the Census Bureau on service industries. However, as to international transactions in services, the Bureau of Economic Analysis presently relies on a system of voluntary reporting by private sector firms augmented by limited legal authority. The result, in some cases, is coverage which is limited and less than desirable on international transactions in services. To achieve the data improvement emphasized in the bill and to carry out the studies and analyses envisaged would require, we believe, mandatory authority to collect much of the necessary international data. However, we will be in a better position to provide guidance once we have completed the Department's review of the private studies on services data improvement referred to in my testimony.

Question. You mention in your testimony several sectors where you have targeted your resources. Why were these particular sectors chosen?

Answer. The sectors cited in my testimony—insurance, telecommunications and information services, financial sevices, transportation, and construction/engineering—are the most prominent service sectors in terms of participation in overseas business, balance of payments impact, and employment. Because of their large size and widespread international activities, these sectors tend to have many of the international problems faced by U.S. service firms requiring U.S. Government assistance.

At the same time, this does not imply that other service sectors are not important to us. We are in close touch with business firms and trade associations in all service sectors as, for example, advertising, motion pictures, leasing, consuling, accounting, and education, to assure that we are alert to the concerns and specialized problems that they have in doing business overseas.

Question. Do you have in place any outreach programs to inform small businesses of the services that you provide which are available to them?

Answer. We consider good liaison with large and small service industry firms fundamental to our programs. Because of the wide variety of industries and large number of firms encompassed in service sectors, we rely heavily on "multiplier" organizations such as industry associations and the U.S. Chamber of Commerce to get our message across. Articles about our activities in Business America and contributions to appropriate trade journals also serve this purpose. In addition, we are making an effort to reach small business more directly through visits by staff members to Departmen of Commerce District Offices to meet with individual services business people.

Question. How will changes in the Foreign Corrupt Practices Act improve our trade in services?

Answer. The reform of the Foreign Corrupt Practices Act will help U.S. industry by removing uncertainties in the application of the law while preserving our opposition to bribery. Service industries will benefit particularly because they tend to operate in areas of the world where facilitative payments are often customary. The construction/engineering industry comes to mind but other services would also benefit as, for example, franchising, hotel management, transportation, consulting, and motion pictures.

Question. In your estimation, what are the chances of getting services added to the agenda of the GATT ministerial meeting in 1982?

Answer. The United States has been a leader in calling greater attention in the trading community to trade problems in services. The GATT Ministerial meeting scheduled for November 1982 offers an important and appropriate forum for discussion of this increasingly prominent topic. We shall do our best to place services on the agenda but, at this point, it is difficult to predict what the final shape of the agenda will be.

QUESTIONS OF SENATOR INOUYE AND THE ANSWERS THERETO

Question. Please explain how the Commerce Department arrived at a figure of $128 billion in service exports and break down the figure by industry. Was the Department able to determine the size of the U.S. surplus in services?

Answer. The first point to be made is that the $128 billion figure is not all services exports. Rather, it is a combined total of $35 billion of so-called direct exports of service and $93 billion of income of U.S.-owned foreign affiliates in service industries. We have described this combined figure as "Foreign business of U.S. service industries" for the year 1980. The data for the export component are from the U.S. balance of payments for that year. The data for the foreign affiliate income component are estimates for 1980 based on data from the 1977 benchmark survey of U.S. foreign direct investment. I am submitting for the record a table which breaks out the various industries as far as presently possible. No attempt has yet been made to determine the size of the difference between the $128 billion figure and U.S. expenditures for foreign services using this particular computation. (Attachment follows:)

FOREIGN BUSINESS OF U.S. SERVICE INDUSTRIES—EXPORTS FROM THE UNITED STATES AND INCOME OF OVERSEAS AFFILIATES

[Dollars in millions]

	1977	1980
Receipts for exports, total	$23,295	[1]$35,246
Travel	6,150	9,985
Passenger fares	1,366	2,582
Other transportation	7,264	11,041
Fees and royalties:		
From affiliated foreigners	3,793	5,728
From unaffiliated foreigners	920	1,265

FOREIGN BUSINESS OF U.S. SERVICE INDUSTRIES—EXPORTS FROM THE UNITED STATES AND INCOME OF OVERSEAS AFFILIATES—Continued

[Dollars in millions]

	1977	1980
Other private services [2]	3,802	4,645
Income of foreign affiliates [3], total	69,220	[4]92,964
Oil and gas field services	3,251	5,072
Petroleum tanker operations	8,249	8,991
Pipeline transmission, oil and gas	1,570	1,711
Finance (except banking), insurance and real estate [5]	14,884	23,963
Banking	2,205	3,550
Construction	10,141	13,488
Wholesale and retail trade	2,950	4,868
Transportation and communication	13,412	14,619
Hotels and lodging	1,550	2,062
Advertising	1,448	1,926
Motion pictures and TV tape and film	1,063	1,414
Engineering, architecture, surveying	3,207	4,265
Accounting	433	577
Other personal and business services	4,857	6,458
Total, exports plus affiliates' income	92,515	128,210

[1] Preliminary.

[2] This line item includes some international transactions which are not usually considered business services; however, the entire amount for this line item is included first, because of possible confidentiality problems with the detail, and second, to compensate at least in part for the omission from the balance of payments of other business services. These omissions appear to include advertising, accounting, employment agencies, educational services, health services, leasing, franchising, and perhaps most important, the provision of services by firms known primarily as goods producers and exporters.

[3] Classified by industry of the affiliate. All income data are for gross income except for banking and wholesale and retail trade which are net income data. The income data are for all affiliates regardless of the percentage of U.S. ownership, which may be as low as 10 percent. The total income of affiliates in service industries includes sales of merchandise (with the probable exception of wholesale and retail trade for which net income data are shown), interest and dividends and other miscellaneous income. Sales of services by affiliates not primarily in a service industry are not included. The dollar value of the affiliates' income as shown in this table does not necessarily reflect dollar flows to the U.S. economy.

[4] Data for 1980 affiliates' income were estimated using varying percentage changes from the 1977 data. These percentage changes in turn were calculated from the growth in investment positions for relevant sectors over the 2-year period 1977–9. The percentage changes used were: oil and gas field services, 56 percent; petroleum tanker operations, 9 percent; pipeline transmission, oil and gas, 9 percent; finance (except banking), insurance and real estate, 61 percent; banking, 61 percent; construction, 33 percent; wholesale and retail trade, 65 percent; transportation and communication, 9 percent; and other services, 33 percent.

[5] Excludes holding companies.

Note.—Prepared by the Office of International Services/ITA/Commerce June 30, 1981.

Sources: Balance of payments data are from the Survey of Current Business, March 1981, table 1, p. 50, and June 1980, table 1, p. 33. Affiliate income data are from U.S. Direct Investment Abroad, 1977, table C, pp. 10–11. Investment position data are from the annual foreign investment articles published in the August issues of the Survey. Both publications are by the U.S. Department of Commerce, Bureau of Economic Analysis.

Question. How have budgetary and personnel resources devoted to the international trade in services been affected by the budget restrictions?

Answer. There has been no reduction in the level of resources allocated to the international services program. Since the establishment of the Office of International Services in May 1981, the program has operated with a staff of 23 and an annual budget of about $1.1 million. The same levels have been requested for fiscal year 1982.

Question. Although the Department has created a new Office of International Services, it is my understanding that it did not receive additional personnel or funds. Is this correct?

Answer. Yes; the new Office of International Services was created using about one-half of the resources of the former Office of International Finance, Investment and Services. The purpose was to give greater focus to the services area, to make more staff available to work on services issues, and to provide a higher level of concentrated program management.

Question. Is there any reason why the services sector cannot be designated as a "targeted" export industry? In view of its importance, why is it not so designated?

Answer. There is no reason why services cannot be targeted for export development. In fact, one service sector (i.e., engineering [architectural], construction, and project management services) is now being considered for designation as a target industry. The problem is that services is not a single industry but a wide range of very different industries that must be promoted in different ways. In many cases, they require promotional techniques other than those developed by the Department over a long period of time for merchandise. Resource constraints limit the number of new industries that can be "targeted" and the introduction of new promotional programs but progress is being made.

A Services Division is being considered within Export Development to give greater focus to this sector. Also, more careful consideration is being given to the applicability of export promotion events to services. The U.S. Chamber's International Service Industries Committee recently reviewed the Department's export incentive programs and provided recommendations to increase their usefulness to services. And the Committee is currently working to identify new promotional techniques for services. I believe that this convergence of Department of Commerce actions and industry's increased input is providing a firm basis for stepped up trade development activities for services.

Senator **Pressler**. I next call on Ronald Shelp, vice president of American International Group. He is appearing on behalf of the U.S. Chamber of Commerce.

STATEMENT OF RONALD K. SHELP, VICE PRESIDENT, AMERICAN INTERNATIONAL GROUP ON BEHALF OF THE U.S. CHAMBER OF COMMERCE'S INTERNATIONAL SERVICES AND INVESTMENT SUBCOMMITTEE, ACCOMPANIED BY GORDON J. CLONEY, DIRECTOR FOR SPECIAL POLICY DEVELOPMENT, INTERNATIONAL DIVISION

Mr. **Shelp**. Thank you, Mr. Chairman. As in the case of the previous witness, this will be a summary of points submitted in the written statement, as you requested. Perhaps even a few points not in the written statement.

With me is Gordon Cloney, who serves as executive secretary of the chamber's subcommittee on international services and investment. I should tell you that we serve as chairman and vice chairman, respectively, of the Government-appointed Industry Sector Advisory Committee on Services, although, obviously, we're not speaking in that capacity today.

Senator **Pressler**. You're not speaking in which capacity, now?

Mr. **Shelp**. The capacity of chairing the Industry Sector Advisory Committee on Services.

Senator **Pressler**. OK. Would you pull that microphone a little bit closer?

Mr. **Shelp**. Certainly, Senator. Let me start by saying that you will not be surprised that we do support S. 1233. It is consistent with the chamber's views on enhancing U.S. service trade competitiveness. It would complement and strengthen those efforts already underway in the Department of Commerce. It could add new dimensions. It should help assure the internal reallocation of resources necessary.

Beginning in 1974, I have traveled to Washington all too frequently to testify on this subject. As these statements have often been critical, it is refreshing to at long last come to say something good about what is happening in Government on services. It took a long time. But in contrast to the attitude we found 10 years ago, the well-being of our international trade in services is not only a recognized concern of industry, it's also a recognized concern in our policy-formulating community and in the U.S. Government.

We are pleased to note that today the Government is at long last organizing itself to address service trade problems. One reason that Government has taken so long is because of the inadequacy of data.

We have stressed this problem often in the past and it's been alluded to here today.

We, too, are familiar with the study commissioned by Government that shows what we have intuitively suspected for a long time: Service trade is much much more important than suspected. Hopefully, new data will eliminate one of the arguments that we have confronted over time with our own Government and with other governments, that is, services are just not important enough to support giving them much attention, or even if they are important, we do not have the data to support this.

There are good reasons for the Government to share private sector concern. The service sector is not doing as well as it was when this crusade started. Between 1969 and 1976, the U.S. share of world invisibles trade receipts fell by one-fifth, from 25 to 20 percent.

You may ask why, and I think you know. No. 1 is simply because of competition. Other countries, both industrial and developing are doing a good job.

The second reason is because of unfair trade practices of other countries. It generally takes two forms. Sometimes it is pure protectionism that inhibits service imports from coming into these countries. And secondly, some countries have practices which unfairly support their service firms in third nations' markets.

It's difficult to define these barriers and often, in discussions with our Government and other governments, one encounters the concept that services are so heterogenous, such a mix, that it cannot be dealt with. However, Mr. Cloney has chaired a chamber working group on this problem involving all services that operate internationally. This group came to a quite different conclusion; that is, trade in services, while producing many different services products, encounters the same kind of obstacles in foreign markets.

One of the conceptual problems that has constantly made this a difficult subject to deal with is that of "establishment," which is so essential to many services. In other words, services activities often are dependent on establishing a branch, an agency, or a subsidiary abroad. Hopefully, this problem is beginning to be better understood also.

The kinds of barriers we face are as familiar to you as us. The way we have categorized them, and there are lots of different approaches one can take, are in five major categories: Interference with access to market; interference with transactions and financial structure; interference with access to production inputs; interference with marketing; and finally, trade-distorting government behavior.

We have already heard today from Mr. Self and previously, from Ambassador Brock, that the Government now does have a strategy to deal with these problems. So there is no need for me to summarize that strategy which is outlined in our written testimony.

We have also heard a great deal about the GATT Ministerial Conference scheduled for next year and the hope that it will lead to a services round of trade negotiations or at least that services will be included in a future round.

We believe that is vitally important. Our timetable, and our patience, is narrower than government's. We believe there must be a service trade negotiation by the mideighties. We have been pressing this point since the midseventies. That to us seems like a long enough time frame.

Nevertheless, recognizing that multilateral trade negotiations are a long-term situation, something must be done in the interim to deal with the problems we face. We believe the answer is obvious. The executive branch must introduce a service trade dimension into bilateral trade investment, monetary and tax discussions with our principal trading partners.

We believe that strong, across-the-board bilateral action is essential to convincing our trading partners that international standards for the treatment of trade in services need to be developed, just as in the past standards were developed for goods trade.

In other words, we are convinced that bilateral action would help prepare the framework for a multilateral trade negotiation because it would attract the attention of our trading partners to the seriousness of the problem.

To do that, however, the President's hand is going to have to be strengthened somewhat. In the past year, our subcommittee has had a task force chaired by Alan Wolff, the former Deputy Trade Representative, examining how U.S. trade legislation needs to be revised to address these problems. This task force's recommendations will be issued in a few months. Some of the issues it is considering includes strengthening the section 301 retaliatory provisions of the trade bill, trying to grapple with the issue of reciprocity which has been alluded to here today, and examining the fact that neither the countervailing duty nor antidumping provisions of U.S. trade legislation apply to services. Therefore, there are no remedies available to services when the kind of problems that these provisions are meant to address arise.

The suggestions I have offered to this point mainly address themselves to dealing with overseas problems. However, a similar strategy is needed to deal with service trade promotion at home. We believe that S. 1233 enhances this considerably.

There is also a chamber task force under a subcommittee which has been working on this for some time. It has reached some conclusions and it will be presenting additional conclusions later. Since the trade promotion devices of the U.S. Government are centered primarily in the Commerce Department, that is where a great deal of the focus of this group has been.

We found, taking 1980 as a target example year, 85 percent of the Commerce Department's trade promotion budget goes to 15 targeted industries. None of these are service industries. We believe that at least a 16th priority for service trade promotion must be designated.

We also found that while some creative thinking needs to be given, and we are willing to lend our support, to devising new programs for promoting service exports, because services are somewhat different that other exports, nevertheless, many existing programs could be adapted to include service industries.

We dwelled briefly, and we are giving more attention to this in the task force, on the problem of export financing for service trade and the general attitudes of the Export-Import Bank, the U.S. agencies that monitor multilateral development banks, AID, and so forth. Again, we found the same deficiency that has traditionally existed in U.S. trade policy when it comes to services exists in these agencies. There is not enough recognition or attention given to the possibilities of service opportunities in the programs carried out by these various departments.

If you view all this against this background, Mr. Chairman, we believe that S. 1233 will formalize the present policy disposition of the Department of Commerce by giving emphasis and direction to a service trade orientation. It should strengthen the resolve to implement such policy.

It was some 2 years ago that Mr. Cloney, myself and several members of our committee met with Mr. Waldmann's predecessor, Assistant Secretary of Commerce, Frank Weil, and laid out in writing the basic issues we thought that they should be dealing with. It is, indeed, gratifying to see that they are not only beginning to deal with many of these issues, but that the Service Industries Development Act covers every basic issue we were concerned about.

We believe this legislation will therefore formalize a trend already well underway. Hopefully, it will encourage the reallocation of resources to carry it out. Most important, it will help assure that changes of personnel and maybe even changes of administrations will not mean a change in this high policy priority.

Thank you, Mr. Chairman.

Senator PRESSLER. Thank you very much. I first have some questions here from Senator Inouye. I will ask the first two and submit the rest for the record.

You suggest that services be targeted by the Department of Commerce as a priority industry. Would you suggest that the bill order this to be done by Commerce?

Mr. SHELP. Since Commerce is in charge of trade promotion, if you could specifically include that in the bill, the chamber would be delighted since it's basically what we have been recommending for some time.

Senator PRESSLER. The second question from Senator Inouye: Not all agencies appear to be as conscious of the services as USTR or Commerce, and some have not tried to promote use of U.S. services in their overseas activities. What do you think can and should be done to encourage them to extend their support to American service firms?

Mr. SHELP. Our past experience, Senator, has been that after we wear out our welcome pressing certain Federal agencies to do something about services, the best friend we have to hold them to the fire is Congress. We could give you a series of specific recommendations towards specific agencies, so as to enhance their awareness of service promotion and service possibilities. Specifically, I would name AID, the Export-Import Bank, the U.S. participation in the multilateral lending institutions, and the Department of Defense in its procurement policies. And I'm sure a few others could be suggested by the members of our committee.

Senator PRESSLER. I guess specifically this morning we heard a great deal of discussion about the unfairness in terms of the banking industry, in terms of foreign banks being able to open branches here much easier than our people can open banks abroad. We've heard comments on the airline industry, where, again, we're much more generous in extending rights to foreign carriers.

What do you recommend that we do in this regard? We can try to persuade the other countries to treat us better, but we're sort of the good guys on the block in international trade, particularly in the service areas.

What do you recommend we do?

Mr. **Shelp**. Well, some of what we have to do, I recognize, will require an initiative by the private firms themselves. And I'm referring specifically to their requesting help or formalizing section 301 suits.

I suppose if I were a U.S. Government official, I would be more generous-spirited about what we should do. The word "retaliation" in Government circles seems to cause the same sort of apprehension and insomnia that a drop in profits causes in business firms.

I think that I can speak for most of the firms involved in the work of the chamber committee and some of the other organizations in saying that we do not find retaliation or the threat thereof such a bad thing. If you take several of the section 301 cases that have been brought before the Office of the Trade Representative and processed through the interagency mechanism, when retaliation was ultimately threatened, or when it became clear that the United States was serious about detrimentally affecting the economic interest of the nation that was discriminating against U.S. service interests, something was done to resolve the problem.

That means, however, that one cannot just focus on services. I suppose that this is one of the difficulties of the concept of reciprocity. It does not do much good, for example, in my industry, to threaten a country with retaliation against their insurance operations in the United States if they have no insurance interests in the United States. You have to find something else, and that something else may not even be a service; it may be a good.

Fortunately, as I understand the way section 301 is written, the President has the discretion to take appropriate action wherever it would be most effective, if he so desires.

Senator **Pressler**. What about in the telecommunications areas? Do you have any strong feelings about our reciprocity in that area?

Mr. **Shelp**. I think some members of our group do. It is an area that I am not very well versed in, personally, but I believe, again, the general principle would be one of believing in reciprocity, while at the same time recognizing that it is a difficult concept to come to grips with.

I think some of us feel, however, that if you define reciprocity on a visceral, intuitive basis, meaning determining what's fair and equitable, that you would probably be able to determine what is a fair policy to pursue consistant with the principle of reciprocity.

Senator **Pressler**. I have some additional questions from other Senators and from myself. In the interest of time, we will submit those for the record. The staff will give you those questions. And we thank you very much.

Mr. **Shelp**. Thank you, Mr. Chairman. We will be delighted to answer these questions.

[The statement follows:]

STATEMENT OF RONALD K. SHELP ON BEHALF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

I am Ronald K. Shelp, Vice President and Director of the American International Underwriters Corporation, Chairman of the Industry Sector Advisory Committee (ISAC) for Services and Vice Chairman of the International Services and Investment Subcommittee of the Chamber of Commerce of the United States. Accompanying me is Gordon J. Cloney, Director for Special Policy Development in the International Division at the U.S. Chamber of Commerce and executive secretary of the Subcommittee.

We are appearing on behalf of more than 178,000 Chamber members—174,000 small, medium and large businesses, more than 1,337 trade and professional associations, over 2,738 State and local chambers of commerce, and 44 American chambers of commerce abroad.

S. 1233 is consistent with the U.S. Chamber's views on enhancing U.S. service trade competitiveness. The legislation would complement and strengthen those efforts already underway in the Department of Commerce. It could add new dimensions. It should help assure the internal reallocation of resources necessary to their full and adequate realization.

Since early in the 1970s the Chamber has urged improvement in U.S. trade policy relating to service industries which are an important part of Chamber membership. The Chamber's concern with trade in services includes the fact that the United States (1) has the world's largest domestic service economy, (2) has the largest service labor force, and (3) is the largest importer and exporter of services.

In 1980 U.S. services account trade, which includes U.S. exports and imports of services as well as investment flows, fees and royalties, totaled about $169 billion or 26 percent of all U.S. private sector trade. Moreover, the services account produced a $38 billion net surplus. This was an important offset to the $25 billion deficit suffered in merchandise trade. And recent research carried out under government aegis suggests that U.S. trade in services may be understated, perhaps by as much as 50 percent.

The Chamber is not alone in recognizing the importance of trade in services and directing energy toward resolving problems related to it. In the recent past, a number of organizations have initiated similar activities. These include the National Foreign Trade Council, the Business Roundtable, the Council on Foreign Relations, the United States Council of the International Chamber of Commerce, the Committee for Economic Development, the German Marshall Fund, and the Rockefeller Foundation. In contrast to the situation 10 years ago, the well-being of our international trade in services is a recognized concern of industry and within our policy formulating community as well.

BARRIERS TO TRADE IN SERVICES

There is a good reason for private sector concern. The favorable U.S. service trade position is being challenged. Between 1969 and 1976 the U.S. share of world invisibles trade receipts fell by one fifth, from 25 percent to 20 percent.

The first challenge faced by U.S. service industries abroad is growing competition due to normal economic growth and activity. Many of our service industries face strong international competition from industrialized countries and advanced developing countries. Domestic service sectors are strengthening almost everywhere overseas.

Another chaallenge faced by U.S service industries comes from countries where the government assists national service firms by means that amount to unfair trade practices. This has two forms. One is protectionism in the countries' local market. A second includes subsidization and other practices which support a nation's service firms in third country markets.

In early 1979, Mr. Cloney chaired a Chamber working group that set out to catalog service trade barriers. Defining what constitutes a barrier or a protectionist practice toward trade in services suffers from the absence to date of international standards, rules and procedures for the treatment of such trade. This group concluded, however, that although trade in services is widely different in terms of service "product," different services face similar obstacles in foreign markets. There are barriers that are common to many service flows.

A conceptual problem arises because many trade barriers facing service industries relate to "establishment," the setting up of a local branch or a subsidiary which may be essential to doing business in a particular service industry. Establishment is not a traditional concern for multilateral trade negoitations.

The major categories of barriers to trade in services identified are the following:

Interference with access to market

The provision of a service may be blocked by the importing economy prohibiting the across-the-border importation of a service and/or by denying the foreign service enterprise the right of establishment. Other less visible protectionist practices affecting, for example, licensing and registry of service firms can have the same effect.

Interference with transactions and financial structure

Regulatory practices can be applied to slow or block international transactions by foreign service firms. Discriminatory taxation or tariffs may create barriers; issuance of foreign exchange can be denited; unreasonable requirements may be applied to capital structure, ownership and financial management of establishments.

Interference with access to production inputs

Foreign service firms may be denied or given restricted access to imported equpment, foreign personnel or to producer services sourced outside the importing economy which are necessary to their operation. Local content requirements, performance requirements or employment quotas may be applied; proprietary information, processes, or know-how provided through trade may not be protected.

Interference with marketing

Sales by foreign service enterprises may be subject to quotas or other restrictions. Technical or other standards may be used to block foreign services sales. Marketing practices by foreign service firms may be curtailed or prohibited. Government procurement opportunities may be denied. Commercial arragements with local customers may be subject to unreasonable requirements which can render contract arragements invalid or unenforceable. Monopolistic arrangements by local private sector companies may with official cognizance close a service market to foreign competitors or official policies may also restrict sales to national or other selected companies.

Trade-distorting government behavior

Most service industries are heavily regulated. The pervasive nature of such regulation offers great oppotunity for interfence with the trade through discriminatory behavior by regulators. This can be unintentional or intentional and protectionistic. The problem is similar to that presented by nontariff barriers in goods trade; however, it is more complex since trade in services is, in so many instances, dependent upon local establishment which subjects the foreign supplier of services to an additional layer of local regulatory attention.

Protectionist regulatory behavior may be formal, based upon law or written regulation or it may be achieved indirectly through pettifogging, delay or other arbitrary practices by officials. Also, government-controlled services or facilities that are available to local competitors may be denied to foreign firms. Subsidization of national service firms can skew competition in domestic and in third country markets. Government competition policies may favor government-owned service enterprises.

TOWARD A STRATEGY FOR REDUCTION IN BARRIERS TO TRADE IN SERVICES

The Trade Act of 1974 provided authority but no U.S. government strategy for dealing with service barriers emerged for close to five years, although a benchmark study of the subject was published by the Department of Commerce in December of 1976. Much progress, however, has been made since 1979. For example:

(1) The U.S. successfully encouraged the OECD to identify specific trade barriers in key service sectors. U.S. efforts to encourage OECD analysis of general types of practices which interfere with service trade have also been made but with uncertain success. We support these initiatives which should lead to rules and procedures for treatment of trade in services.

(2) Preliminary consideration has been given to the question of how procedures of the General Agreement on Tariffs and Trade (GATT) and, in particular GATT codes, might be extended to service trade barriers. Of importance are the codes affecting subsidies, government procurement and standards. We support further rapid progress in this area. We hope that the GATT ministerial conference now expected in the fall of 1982 may lead to a "services round" of trade negotiations in the mid-1980s.

(3) The Commerce Department and the Office of the United States Trade Representative (USTR) are assisting individual service firms facing discrimination through bilateral consultation with the offending government or through more formal procedures such as "Section 301" actions. We support this. There is a related

need to make this willingness to assist widely known within the business community.

(4) Progress is being made in improving the quality of data on trade in services. This effort should continue apace.

(5) Service industries have been incorporated into the government's trade advisory structure. A Service Industry Policy Advisory Committee and a Service Industry Sector Advisory Committee (ISAC) now exist. We support the fullest degree of industry-government cooperation and these advisory structures are a major step in the right direction. There is a related need to provide the requisite staffing and to improve scheduling so that industry is involved in decision-making at the earliest possible moment.

In addition to these areas where progress is being made, the executive branch must introduce a service trade dimension into bilateral investment, monetary and tax discussions with principal trading partners. We believe that strong across-the-board bilateral action is essential to convincing our trading partners that international standards for the treatment of trade in services need to be developed, just as in the past standards were developed for goods trade.

A review of the adequacy of U.S. trade legislation in light of service industry problems is needed. Consideration should be given to the merit of extending countervailing duty and even entidumping recourse action to services. A task force of the U.S. Chamber Subcommittee on Services and Investment Policy is studying the matter and we expect to provide recommendations in this area by early in 1982.

TOWARD A STRATEGY FOR SERVICE TRADE PROMOTION

Moving away from the question of discriminatory practices and barriers which fall into the realm of unfair trade practices, there is a second type of challenge which confronts U.S. service industries and our government in world markets. I refer to the challenge coming from service industries in competitor nations that receive promotional help and other incentives from their governments. Using acceptable practices these governments do a better job of promoting and advancing their service trade than we do. These governments have recognized what we have tended to take for granted, the major role service companies play in their international trade.

A Chamber task force has been reviewing the area of service trade promotion reaching several conclusions. Trade in services has traditionally received a much lower level of attention within U.S. export promotion programs than its magnitude would justify. This must be changed. We noted that in 1980, the Department of Commerce assigned about 85 percent of its trade promotion resources to 15 "targeted" industries. Every one of these was a manufacturing industry. A "sixteenth priority" for service trade promotion must be designated. This would assure the allocation of the Commerce Department manpower and the program resources necessary to develop skill in service trade promotion. It would encourage existing promotion programs to become sensitive and responsive to service trade needs.

Several additional conclusions about service trade promotion have been reached by the Chamber. These are:

(1) While some new trade promotional approaches will be necessary given the nature of services trade, many existing programs could be adapted to include service industries. This is important in an era of tight budgets. New programs might be developed on a shared-cost basis.

(2) The trade promotion staff within the Commerce Department and the overseas staff of the U.S. Foreign Commercial Service have not been directed to support services (e.g. develop leads, build a body of foreign market information, etc.) with the same vigor they are expected to support manufacturing and agricultural exports. Service trade consciousness must be a priority for both groups. Consultation with industry must be used to help bring this about.

(3) Financing for service trade appears deficient but more complete analysis is needed by our task force before specific recommendations can be made. The Export-Import Bank, U.S. agencies monitoring the multilateral development banks, and the Agency for International Development do not seem to give services sufficient attention. U.S. service trade needs are not factored into their strategies nor are the service opportunities the programs create given sufficient attention.

We understand that the Department of Commerce is preparing to address the need to strengthen trade promotion in services. We encourage this important development.

CONCLUSION

In evaluating the provisions of S. 1233, it is helpful to review developments since 1973 when the Chamber began to direct attention to service trade. At that time there was little, if any, U.S. government concern about service trade per se and only a fragmented governmental "constituency" to deal with related issues affecting some service industries.

Today the government recognizes the importance of trade in services to our foreign commerce and is organizing to address service trade problems. The 1974 Trade Act was responsible for part of this progress, for it led to a series of developments within the executive branch including improved organization in the Commerce Department in 1978 and inclusive efforts to introduce service trade issues in the "Tokyo" round negotiations.

Executive branch developments accelerated during late 1979, following the close of the Tokyo round and perhaps as a consequence of our negotiators' failure to make major progress during the GATT negotiations. Both the United States Trade Representative and the Under Secretary of Commerce for International Trade committed the administration to programs for dealing with service trade problems. The Office of the USTR designated an Assistant Trade Representative responsible for services. The Department of Commerce designated a Deputy Assistant Secretary for Finance, Investment and Services. Related personnel was increased in both organizations. The USTR created a services subcommittee of the Interagency Staff Policy Committee to coordinate federal agency activities relating to service trade. Finally, the mentioned Services Policy Advisory Committee and a Service Industry Sector Advisory Committee were established.

If viewed against this background, S. 1233 will formalize the present policy disposition of the Department of Commerce by giving emphasis and direction to their service trade orientation. It should strengthen their resolve to implement such policy fully. The creation of the service industries "program" in the Department of Commerce, which the bill envisions, relates logically to steps already taken—the organization of the International Services Division in 1978, and the designation of a Deputy Assistant Secretary for Finance, Investment and Services in 1979.

In April 1979, together with Mr. Cloney and several members of our Committee, I met with then Assistant Secretary of Commerce, Frank Weil to discuss the possible elements of a coordinated government program to deal with services trade. We then communicated the substance of our views to him in a memorandum which we reviewed in preparation for this testimony for it cites the private sector concerns.

It is gratifying to note that these concerns are largely addressed in S. 1233. The following areas set out in the bill's Section (5) were present in our 1979 analysis: Promote competitiveness, promote sale and use of U.S. services, develop a data base, collect and analyze information relative to international operations and competitiveness, analyze U.S. tax treatment, analyze U.S. antitrust policies, analyze commercial agreements, analyze present export promotion and financing programs, document trade impediments, support service trade negotiations, collect policy-related statistics and information, develop information on foreign governmental policies.

Several areas present in S. 1233 were not referred to in our analysis. These, in the main, focus on related domestic policy and do not conflict with our concerns.

In sum, S. 1233 mandates the Department of Commerce to pursue an objective which the Congress first expressed in the Trade Act of 1974 and has repeated at various times since then and which the Chamber fully shares—the executive branch must give a policy priority to the trade needs of our service firms.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. Does the Trade Act of 1974 need further classification in determining its application to Services?

Answer. Yes; certain portions of the Trade Act definitely need clarification. In this regrad, the task force of the U.S. Chamber's International Service Industry Committee, chaired by former U.S. Deputy Trade Representative Ambassador Alan Wolf, has been working for some months to develop recommendations on how the Trade Act and other aspects of U.S. Trade Legislation should be improved to be more fully applicable to services.

One area of primary concern is the clear applicability of section 301 to certain kinds of service activities, such as investments. Also of concern is the means available to the President to respond to unfair trade practices. Although the U.S.

Trade Representative has made it clear that he considers the Section 301 provisions applicable to investment practices, nevertheless, the proposals we will be submitting to Congress at a later date, through the Chamber's Service Committee, should help strengthen the applicability of the Trade Act of 1974 in this and various other areas.

Question. You mentioned the problem of subsidization, could you provide some examples of how our foreign counterparts use these unfair trade practices?

Answer. Examples can be found in various industries. Two of the most persistent areas of subsidization occur in the maritime and aviation transport sectors. One often cited, for example, by the Airline Industry is the subsidization of the Concord flights by the British and French governments. In the same vein, since most national airlines are government owned, when airlines are suffering from losses and governments are subsidizing them . . . . competitive responses that should result from such losses are not allowed to take place. Similar examples can be singled out in the shipping industry. A long catalog of barriers has been prepared by the U.S. Chamber of Commerce's International Service Industry Committee in conjunction with the U.S. Trade Representative's office. This lists the various barriers in maritime transportation as well as in numerous other industries.

In my industry, insurance, there is a problem also. One example is analogous to state ownership of airline I mentioned previously. There are cases where government owned insurance companies decide they want to carve a place for themselves in world markets, so they cut rates at uncompetitive prices to capture a piece of these markets. The only way they can do so is because the losses they sustain in the process are borne by their respective governments. There are, in effect, subsidies.

Question. Would you provide some examples of why establishment is particularly problematic for U.S. service industries for pursuit of foreign business opportunities?

Answer. It is often said that investment is a form of international commercial activity more often associated with the service sector than with the goods producing sector. They may very well be overstated since it could be argued, among other things, that many investment activities in the service sector overseas occur not because that is the only way the activity could occur if there was unregulated trade in a particular service activity, but because the policy actions and the resulting regulatory practices of government force the activity to occur through an investment or establishment form. For example, one could argue that various services such as insurance, banking, construction, advertising, accounting could well be offered on a trade basis without having to actually establish and invest locally. But governments as a general rule require such activities, if they are to be performed in a national jurisdiction, to occur through locally established branches and subsidiaries.

Operating internationally through investment would not be a basic problem if it were possible for establishment to take place on equal terms with non-foreign companies established in the same jurisdiction. So the first issue that must be addressed is permission to establish oneself. In a broad spectrum industries, such as my own, insurance, and banking, construction, engineering and various other sectors, establishment is often impossible.

Just to name examples in the insurance sector a license to a foreign insurer has not been granted in Norway for approximately 40 years. This indicates that the establishment problem is not simply one that occurs in the developing countries. Similar difficulties in obtaining a license to operate local establishments occur throughout South America and in certain African Middle Eastern and Asian countries.

A second issue, again using insurance as an example, but remembering that many of the examples would be equally applicable in other sectors: even if authorities grant a foreign investor the right to license or establish itself, often it is not done on equal or competitive terms with national companies. The restrictions can be varied. In some countries, there are higher capital or initial deposit or financial requirements. Others will not let a foreign established insurer operate in the same lines of insurance as national insurers; or they are limited in the products they can sell. Often, purchase of insurance by governments is limited to national companies. Again, a long list of examples is available from the cataloging complied by various sources such as the U.S. Chamber, the U.S. Trade Representative, or the Department of Commece.

QUESTIONS OF SENATOR INOUYE AND THE ANSWERS THERETO

Question. In your forthcoming book on Internaional Trade in Services, you note that service actually constitute an unexpectedly large portion of the gross national product of many less developed countries, newly industrializing countries, and industrialized countries. Do you think that this fact may help to get multi-lateral negotiations started sooner than believed?

Answer. I wish I could respond affirmatively to that question but I am afraid the answer must be negative. It is true that many developing countries are already service economies as defined in traditional economic terms, i.e., more than half of the population is employed in the service sector. It is equally true that the FNP produced by servies is substantial in a surprising number of developing nations. Most important, as my book Beyond Industrialization: Ascendency of the Global Service Economy, documents, many of the developing economies are competing in international markets in services. One of several examples that could be cited is in the construction/engineering industry. Surely, therefore, they have a stake in the removal of barriers to services in international markets.

However, this stake is not clearly perceived by those developing nations who should be interested any more than it is perceived by many industrial nations who are major exporters and international investors in services. That is why it is important to involve the developing nations with a stake in international service activity in the preparations for a trade negotiation at an early stage.

Question. "Reciprocity" is a two-edged sword that could result in protectionism rather than open up foreign markets as intended. Do you consider this to be a legitimate concern and how do we minimize protectionism and maximize exports?

Answer. Reciprocity has become the byword in the United States to suggest the principle that should not only govern our international trading relations in goods but in services. It is being frequently applied to our international investment policies as well. It is not clear what reciprocity means. The best that can be said is that it means different things to different people. One can easily understand why so many are concerned about the even-handed applicability of the principle of reciprocity to our trading and especially our investing relations. It could have an effect to that intended. It could lead to the imposition of barriers instead of the removal of existing barriers if nations restrict the admission of other nations' goods and services and commodities on the basis of the way they are treated elsewhere. It might undermine some of the international rules that have been established such as the most favored nation treatment principle which is the heart of GATT. Ironically, in fact, the Code of Invisible Transactions of the Organization for Economic Cooperation and Development specificaly prohibits the principle of reciprocity being applied among the member nations of the OECD on the items cover by the Code. In other words, a nation should not apply the reciprocity principle to services activities covered under the Code.

But while appreciating the dangers, one has to face the fact that the principle itself, if not absolutely draconian, is a valid one. Rather than trying to define exactly what the principle is and how and when it should be applied, I believe that it should be dealt with pragmatically. Surely those responsible for making such determinations can tell intutively what it emobides and the best way to apply it on a case by case basis.

One of the key issues that must be grappled with is how broadly is the principle to be applied. Is reciprocity to be applied on a sector by sector basis or across the board? While I have no difinitive answer, using my sector, insurance as an example, if reciprocity is only to be applied by sector, there will be great difficulties in achieving something meaningful in many sectors. That is because many countries, especially developing ones, but also industrial ones, who discriminate against American insurers abroad do not have an interest in insurance activity in the United States. Thus, applying reciprocity in the sector would not achieve the goal of reciprocity overseas. So in this case, a broader application is needed.

Question. Have you had any opportunity to review the proposals by the Chamber Working Group to enhance U.S. trade laws relative to services? Please comment on the legal deficiencies addressed in these proposals.

Answer. I referred to these proposals in my answer to the first written question supplied by Senator Pressler. To elaborate further, beside trying to remedy the deficiencies in Section 301 legislation, the proposals do attempt to come to grips with the issue of reciprocity that I discussed in answer to your previous question and consider other areas of U.S. trade legislation where services have been ignored. For example, the trade adjustment assistance legislation, the countervailing duty legislation, the anti-dumping legislation, are not applicable to services.

Question. In your view does Section 301 have to be strengthened? Is the Chamber also studying this section in addition to the dumping and subsidies laws? Does it have any preliminary conclusions which it can share with its committee?

Answer. The answer to each of these questions is yes. I answered these questions in responses to earlier questions.

Question. What would be the result of our inability to place the services issue on the agenda of the ministerial meeting next autumn of the MTN review?

Answer. The long term impact would be an unpredictable delay in when the world trading community would be likely to prepare for a multilateral trade negotiation that includes services as a major agenda item. My understanding is that the inclusion of services on the agenda for the ministerial meeting of GATT next November is intended to pave the way for a major negotiation on services. If the United States Government fails, after stating publicly this is one of its major goals, it would clearly indicate that the U.S., which has traditionally spearheaded most movements toward freer trade, is no longer in the driver's seat.

Senator **Pressler**. I next call on Rudy Oswald of the American Federation of Labor and CIO as our final witness today. We will continue tomorrow with industry witnesses. Tomorrow, we will be hearing from people in the banking industry, in the insurance industry, and the telecommunications industry.

Rudy, why don't you go ahead?

STATEMENT OF DR. RUDY OSWALD, DEPARTMENT OF ECONOMIC RESEARCH, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, ACCOMPANIED BY ELIZABETH JAGER, ECONOMIST, AFL-CIO, AND STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE, AFL-CIO

Dr. **Oswald**. Thank you, Mr. Chairman. Accompanying me this morning are Elizabeth Jager, economist at the AFL-CIO, and Steve Koplan, legislative representative.

I would like to highlight a little bit of my testimony and ask that the entire testimony be made a part of the record.

The AFL-CIO welcomes the opportunity to discuss the issue of services, and we appreciate your joining with Senator Inouye in cosponsoring this bill, which calls attention to the need for developing effective policies and action in the executive branch of Government to promote service industries.

Mr. Kirkland's words recently on this issue may best express the attitude of the AFL-CIO in this respect, and I'd like to quote from him:

> Services represent a huge combination of issues too long overlooked in trade policy. For U.S. banks, shipping companies, airlines, broadcasting, advertising, insurance, and many other types of firms, the policy issues seem clear: discrimination against their foreign expansion calls for action by the U.S. Government.
>
> For many years, AFL-CIO policies have also called attention to effects at home. Seven out of ten U.S. jobs are now in "services." American seamen were the first to experience the export of service jobs after World War II. American air traffic has led to disputes that affect pilots, flight attendants and maintenance crews. The AFL-CIO does not want to see jobs in services—now the majority of jobs in the United States—trades away as manufacturing jobs have been.

But the trade problems are specific and quite diverse. The problems of building and construction are not the same as the problems of entertainment. I also make some other references to some of our specific problems: The differences between different classifications of employees and different definitions of services have impacts on how services are to be dealt with, because the huge, amorphous, diverse activities that are lumped together, we think sometimes inappropriately, for overall negotiations.

We're often concerned that services are defined in many different ways. Section 4(4) of S. 1233, for example, has a fairly detailed description, but it says "including, but not limited to," so that it can cover not only transportation, communications, retail, wholesale trade, and all the other things, but whatever else may come up. We think that allows a very broad implication.

In another part of the bill, section 2(3), the bill also includes investments, which are important factors, including some $34 billion in 1980. We believe that this reference to investments is inappropriate for two reasons. They are not basically U.S. services. Balance of payments accounting lists "services" or "invisibles" to include current payments for almost everything except merchandise trade and long-term capital flows. Thus, it includes dividends on investments. But that is not a trade issue or a subject for service negotiations, in our view. Nor do dividends necessarily represent a gain for the United States in terms of jobs and job opportunities.

Second, the accounting in this form gives a false impression of the strength of U.S. services—a far different impression from the real facts about many parts of the service sector where there are actual deficits. Transportation, for example, has been in deficit throughout the sixties and seventies.

For the United States to use this figure to show a surplus in services is to ask the foreign negotiators to demand outrageous and unrealistic concessions from the United States in negotiations, because it implies that we have such a large surplus. That has been one of the many mistakes made in negotiations in trade in goods. We would hope that such a mistake will not be made in negotiations on services.

We believe that it's most important that there be a case-by-case look at the service sector. Ongoing bilateral negotiations and actions by the United States should be the first step toward multilateral negotiations. We support the concept of "reciprocal rights and benefits for U.S. traders and investors." Some steps toward this process have already been passed by the Senate in S. 898 and section 238 of that telecommunications bill.

Second, there is a persistent reference to "free trade" and "protectionism" in services in section 3(4) of this bill, it seeks to promote "free world trade in services to the maximum extent feasible."

We don't believe that it's always appropriate to use this term about operations which are so much part and parcel of the cultural life of a nation. A nation's legal services, health services, educational services, and requirements for skills and standards of workers, such as electricians and plumbers, have many appropriate "barriers" to trade.

We would not look favorably upon dropping the requirement that lawyers be members of the bar or accountants be appropriately certified.

We believe it is appropriate to have immigration standards and requirements such as citizenship for certain employment. We do not believe that massive transfers of people are appropriate. In the past, such proposals have had the potential of undermining the immigration laws which are now a serious concern to the Congress and to most Americans. Therefore, we do not want to sweep away every standard in the name of so-called free trade.

Basically, the AFL–CIO believes that policies on services should be carefully developed on a case-by-case basis to solve specific situations. Action to solve these specific cases should be undertaken on a bilateral basis to the maximum extent possible. Long-term policy goals for multilateral negotiations should not get in the way of solutions for present service problems.

That summarizes our concern, Mr. Chairman, on this important issue.

Senator **Pressler**. Thank you very much. I see that you have some disagreement with the definition of "services" used in the bill, particularly the inclusion of investment income in the service category. Do you have substitute language that you would like to propose?

Dr. **Oswald**. Mr. Chairman, the investment part was not in the definition of the bill. It was in section 2(3). We believe that when you include investment, you automatically make the United States seem like a major country in surplus in services and in negotiations, obviously, that's going to say that we have to give something up to allow the others to balance the services side.

I think that that makes it inappropriate to include investments at all and I would drop investments.

We commented in our testimony on the definition in section 4(4), that it is very broad, but I do not have alternative language for section 4(4). It is all-inclusive. But I think the inclusiveness emphasizes the great diversity in what services is. The problems in banking are obviously different than they are in transportation, than they are in some of the data flows, and I think that each one needs to be looked at much more specifically.

Senator **Pressler**. I think it's very important that we listen to your points of view because they do shed a light that's very important. For instance, you mentioned citizenship for certain types of employment. That's something that I guess great controversies are raging over in the Judiciary Committee and elsewhere.

What do you have in mind there?

Dr. **Oswald**. Mr. Chairman, the reason that we emphasize that is our current experience. As you know, the STR and Commerce have put together a long list of what they describe as "foreign barriers to trade in services." Among some of those barriers that are listed is the requirement that certain foreign countries require that certain citizens perform services in their country.

That seems to me to be an appropriate standard. It seems to me that we have to be very careful when we call certain elements an intrusion on free transfer of services. We must be careful not to undermine existing U.S. laws that we would hope to uphold which deal with such issues as immigration. I would hope that we would not undermine U.S. laws that require lawyers to practice as appropriate members of the bar, or that require that doctors who perform health services be certified as members.

When we call attention, as the STR and the Commerce Department do to a list of the foreign requirements, we should always be cognizant of their impact on U.S. standards. I would hope that we won't undermine U.S. standards by a notion of just enhancing services as a goal without recognizing the impact of removing such standards on other aspects of American life.

Senator **Pressler**. This has intrigued me. I know that some foreign countries, particularly northern European countries, do not like to grant citizenship very freely to immigrants and take people in on work permits and have them renew them every 2 years. If the work vanishes, they're fairly hardnosed about sending them out. So we have a lot of immigrants seeking citizenship in third countries.

In our own case, if a foreign citizen arrives here he is almost guaranteed to become a U.S. citizen in a couple of years. You address this to some extent in your statement, but if you have anything to add to that as to what direction we should be going in, please let us know.

Dr. **Oswald**. We have been addressing a number of those issues in the hearings that are before the Judiciary Committee and Mr. Simpson's subcommittee in the Senate. We have had serious concerns with the broad areas, both of immigration priorities for various occupations, as well as the whole question of guest workers and other issues.

The concerns that we have are particularly important at this time when we have 7½ percent unemployment. You mentioned the European experience with guest workers. They stopped bringing those guest workers into Europe when unemployment hit 2½ percent, not 7½ percent.

Senator **Pressler**. Could you please elaborate on your comment that negotiations on trade in services may ignore or harm the U.S. domestic interest?

Dr. **Oswald**. You had some discussions earlier with previous witnesses on such issues as banking or insurance and other areas.

When we talk of banking, we require, and I would hope that we would continue to require, that the Federal Reserve Board and the Comptroller of the Currency maintain the same types of requirements for any foreign bank as for domestic banks.

There are a number of questions under the current legal applications of some of the standards of the Federal Reserve Board and the Comptroller of the Currency how they currently affect Reserve requirements and other transfers of funds.

Similarly, it seems to me that on the insurance side, a question that really has not been answered by the Congress is that we have not ever established Federal jurisdiction, in essence, over the insurance industry. It is essentially regulated on a State-by-State basis.

If we allow foreign insurance companies to operate in the United States, do we somehow give them an advantage over domestic insurance companies because of some foreign ability to function that would not be true of domestic insurance companies?

And I think, too often, as I have looked at some of the work that has been done so far by STR and Commerce and others, the emphasis has been only on what I would describe as foreign barriers, rather than looking at the reciprocal impacts. If we raise some of these questions, what are the effects on U.S. laws and practices? Do we really want to raise those questions?

I think, therefore it's very important that we look at the other side of that coin as well, or we may give up U.S. standards as concessions.

Senator **Pressler**. Yes; I must say that in all of our discussions this morning, and I've been guilty of it, too, have not considered sufficiently labor's point of view of these trade questions.

If you have any closing comments, I'd much appreciate it. I thank you for being here. Do you have a further comment?

Mr. KOPLAN. Yes, I just had one question. In looking at the bill, we noticed that section 5 of the bill authorizes the Secretary in part to analyze the tax treatment of services with particular emphasis on the effect of U.S. taxation on the international competitiveness of U.S. firms in exports.

We wondered whether there were specific code provisions that this subcommittee had in mind with regard to taxes that you were concerned about?

Senator PRESSLER. A number of those were addressed in the tax bill, but the staff will be happy to provide that information to you and work with you on that. That's a good point. As a matter of fact, you people can meet right after this meeting and we'd much appreciate it.

Mr. KOPLAN. Fine.

[The statement follows:]

STATEMENT OF DR. RUDY OSWALD, DIRECTOR, DEPARTMENT OF ECONOMIC RESEARCH, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO welcomes this opportunity to discuss the issue of services in commerce. Mr. Chairman, we appreciate your joining with Senator Daniel Inouye in cosponsoring S. 1233, the Service Industries Development Act, which calls attention to the need for developing effective policies and action in the Executive Branch of government to promote U.S. service industries.

AFL-CIO President Lane Kirkland recently summarized AFL-CIO policies toward trade in services in this way:

"Services represent a hugh combination of issues too long overlooked in trade policy. For U.S. banks, shipping companies, airlines, broadcasting, advertising, insurance and many other types of firms, the policy issues seem clear: discrimination against their foreign expansion calls for action by the U.S. government.

"For many years, AFL-CIO policies have also called attention to effects at home. Seven out of ten U.S. jobs are now in "services." American seamen were the first to experience the export of service jobs after World War II. American air traffic has led to disputes that affect pilots, flight attendants and maintenance crews. The AFL-CIO does not want to see jobs in services—now the majority of jobs in the U.S.—traded away as manufacturing jobs have been."

But the trade problems are specific and quite diverse. The problems of building and construction are not the same as the problems of entertainment. There are so many different types of perceived "trade barriers" that U.S. government offices have made a list of over "2,000 barriers to services," and this is far from exhaustive. Nor would everyone agree that all should be removed.

Some examples of service barriers recently reported in the October 5, Wall Street Journal are: Australia won't let foreign banks open branches or subsidiaries; Sweden bars local offices of foreign companies from processing payrolls abroad; Argentina requires car importers to insure shipments with local insurance companies; Japanese airliners get cargo cleared more quickly in Tokyo than do foreign carriers; and if a U.S. company wants to use American models for an advertisement in a West German magazine, it has to hire the models through a German agency—even if the ad is being photographed in Manhattan.

The effects on employment are also diverse. The implications for service industries jobs for models and engineers, for bank employees and airline personnel are diversified. And they are particularly different in terms of national and international activities. Thus fees and royalties, which are counted as payments or receipts for services in the balance of payments accounts, may be the result of employing personnel abroad and therefore do not create U.S. jobs. In the same way, payments for foreign buildign and construction operations are counted as payments, but they do not create building and construction jobs in the United States.

Even employment classifications are different nationally and internationally. In U.S. economic classifications, for example, building and construction employees are not classified as "service workers." They are classified as "goods producing" workers. Thus the international "services" are not the same as "domestic services," where employees are concerned.

These differences make it absolutely essential that policies on general negotiations be based on the practical solutions for specific current problems so that the huge, diverse service industries will not be lumped together inappropriately for some overall negotiations.

We are particularly concerned about definitions of services. Thus the definition in Section 4(4) of S. 1233 shows the scope of the problem:

"(4) 'services' means economic outputs which are not tangible goods or structures, *including, but not limited to,* transportation, communications, retail and wholesale trade, advertising, construction, design and engineering, utilities, finance, insurance, real estate, professional services, entertainment, and tourism, and overseas investments which are necessary for the export and sale of such services." (Emphasis supplied.)

Overseas investment income is often included in the definition of services. That is appropriate for the balance of payment accounting on nonmerchandise trade flows. But it does not measure the same kinds of "services" that are involved in other definitions. We are pleased to see that the definition of this bill is specific. However, Section 2(3) of the bill states:

"(3) services, including investments, are an important factor in the United States international trade, accounting for almost 30 per centum of total United States trade, and provided the United States with a surplus of more than $34,000,000,000 in 1980, and. . ."

This is, in our view, inappropriate for two reasons: These are not U.S. services. Balance of payments accounting lists "services" or "invisibles" to include current payments for almost everything except merchandise trade and long-term capital flows. Thus it includes dividends on investments. But that is not a trade issue or a subject for service negotiations. Nor do dividends necessarily represent a net gain to the United States. For example, as the high price of imported oil hurt the economy and affected the jobs and production in many industries, the services ledger of the balance of payments listed returns on investments in the oil as part of a huge surplus of income on "investment." Dividend income is not appropriate as part of the ledger for negotiations on services.

Secondly, the accounting in this form gives a false impression of the strength of U.S. services—a far different impression from the real facts about many parts of the service sector. Transportation, for example, has been in deficit throughout the 1960s and 1970s.

For the United States to use this figure to show a surplus in services is to ask the foreign negotiators to demand outrageous and unrealistic concessions from the United States in negotiations. That has been one of the many mistakes made in negotiations in trade in goods. And now the U.S. is in deficit in goods, as we are in many of the service sectors.

These comments demonstrate that the data on services are just as diverse and confusing as the definition.

A study performed for the Departments of State and Commerce reports that data on "services" present many problems of collection. Results are not clear. The survey shows $60 billion in services revenue, but this figure does not represent a balance of services imports and exports. It is the receipts of 16 U.S. service industries internationally (excluding some bank returns).

The traditional statistical survey shows that the balance of payments on travel and passenger fares—transportation generally—has been in deficit throughout the 1960s and 1970s. (Table I)

While we recognize the importance of the issues raised in S. 1233, therefore, let me mention a few other major concerns:

Because there is not sufficient information and there is not a study of the impact on the United States of removal of U.S. "obstacles to trade in services," negotiations on services may be one-sided. The negotiations may ignore or harm the United States domestic interest. This can become very serious for U.S. service industries and workers at home—as it has in manufacturing negotiations.

We believe that case-by-case, ongoing bilateral negotiations and actions by the United States should be a first step toward any multilateral negotiations. We support the concept of "reciprocal rights and benefits for U.S. traders and investors." Some steps toward this process have already been passed by the Senate in S. 898 Section 238.

Secondly, there is a persistent reference to "free trade" and "protectionism" in services. Thus Section 3 (4) of the bill seeks to promote "free world trade in services to the maximum extent feasible." We do not believe it is appropriate to use this term about operations which are so much part and parcel of the cultural life of a nation. A nation's legal services, health services and education services, and requirements for skills and standards of workers, such as electricians and plumbers, have many appropriate "barriers" to trade.

We believe it is appropriate to have immigration standards and requirements, such as citizenship for certain employment. We do not believe that massive transfers of people are appropriate. In the past, such proposals have had the potential of undermining the immigration laws which are now a serious concern to the Congress and to most Americans. Therefore, we do not want to sweep every standard aside in the name of free trade.

There are so many fields of endeavor involved in services that we question the appropriateness of Section 3(2) which gives the Commerce Department the lead in services. Health services, legal services, banking services, transportation services, etc., have major government agency responsibilities. For data collection from these and other sources, Commerce may be the best choice. But these "different" and complex services may require other types of coordination in the Executive Branch.

In summary, Mr. Chairman, the AFL-CIO believes that action to promote the interests of U.S. service industries and workers, both at home and abroad, is long overdue. Definitions of what is to be included and better data are necessary before overall negotiations begin. But most of all, before any overall approach begins, the best way to solve these problems is through specific case-by-case negotiations that meet current problems now.

The United States cannot and should not negotiate away the jobs of service employees of let them be exported, as manufacturing jobs and services jobs in the past have been exported. Reciprocity should be an important case-by-case solution in realistic and effective negotiations between the U.S. and other nations.

The AFL-CIO believes that the United States must remain a major maritime, agricultural and manufacturing nation, and it needs a foreign trade policy that will ensure, not undercut, that goal.

The AFL-CIO believes that the United States' policies must not seek to make the U.S. solely a service economy. Our policy is that the United States needs a diversified industrial base with the skills and services of an advance economy.

As Mr. Kirkland indicated:

"The AFL-CIO believes that policies on sevices should be carefully developed on a case-by-case basis to solve specific situations. Action to solve these specific cases should be undertaken on a bilateral basis. Long-term policy goals for multilateral negotiations should not yet in the way of solutions for present services problems."

TABLE I.—SERVICES IN THE U.S BALANCE OF PAYMENTS, 1960–1980—SUBTOTALS FOR SELECTED INTERNATIONAL TRANSACTIONS ANS SHARES IN TOTALS FOR GOODS AND SERVICES

[In millions of dollars, except where indicated otherwise]

	1960	1965	1970	1975	1976	1977	1978	1979	1980
Receipts:									
Travel	$919	$1,380	$2,331	$4,697	$5,742	$6,150	$7,186	$8,335	$9,985
Passenger fares	175	271	544	1,039	1,229	1,366	1,603	2,156	2,582
Other transportation	1,607	2,175	3,125	5,840	6,747	7,264	8,306	9,793	11,041
Fees and royalties	837	1,534	2,331	4,300	4,353	4,713	5,840	6,192	6,993
Other private services	570	714	1,294	2,920	3,584	3,802	4,217	4,291	4,645
Subtotal private services	4,108	6,074	9,625	18,796	21,655	23,295	27,152	30,767	35,246
Income on investment [1]	3,001	5,384	7,663	16,191	20,258	23,676	29,660	45,262	56,629
Total receipts for private services and investments	7,109	11,458	17,288	34,987	41,913	46,971	56,812	76,029	91,935
Total exports of goods and services	28,861	41,086	65,673	155,729	171,630	184,705	221,036	286,521	340,887
Services (excluding receipts of investment income) as percent of total exports of goods and services (percent)	14	15	15	12	13	13	12	11	10
Services (including receipts of investment income) as percent of total exports of goods and services (percent)	25	28	26	22	24	25	26	26	27
Payments:									
Travel	−1,750	−2,438	−3,980	−6,417	−6,856	−7,451	−8,475	−9,413	−10,384
Passenger fares	−513	−717	−1,215	−2,263	−2,568	−2,748	−2,896	−3,100	−3,533
Other transportation	−1,402	−1,951	−2,843	−5,688	−6,852	−7,874	−8,912	−10,466	−10,981
Fees and royalties	−75	−135	−225	−473	−482	−434	−607	−706	−757
Other private services	−593	−461	−827	−1,551	−2,006	−2,194	−2,566	−2,779	−2,980
Subtotal private services	−4,333	−5,702	−9,090	16,392	−18,764	−20,701	−23,456	−26,464	−28,535
Income on investments [1]	−731	−1,241	−4,058	−6,834	−7,132	−7,472	−10,816	−18,664	−25,145
Total payments for private services and investment [1]	−5,064	−6,943	−13,148	−23,226	−25,896	−28,173	−34,272	−45,128	−53,780
Total imports and services	−23,729	−32,801	−60,050	−132,836	−162,248	−194,169	−230,240	−281,560	−333,810
Services (excluding payments of investments income) as percent of total imports of goods and services (percent)	18	17	15	12	12	11	10	9	9

TABLE I.—SERVICES IN THE U.S BALANCE OF PAYMENTS, 1960–1980—SUBTOTALS FOR SELECTED INTERNATIONAL TRANSACTIONS ANS SHARES IN TOTALS FOR GOODS AND SERVICES—Continued

[In millions of dollars, except where indicated otherwise]

	1960	1965	1970	1975	1976	1977	1978	1979	1980
Services (including payments of investment income) as percent of total imports of goods and services (percent)	21	21	22	17	16	15	15	16	16
Net:									
Travel	−831	−1,058	−1,649	−1,720	−1,114	−1,301	−1,289	−1,078	−399
Passenger fares	−338	−446	−671	−1,224	−1,339	−1,382	−1,293	−944	−951
Other transportation	205	224	282	152	−105	−610	−606	−673	60
Fees and royalties	762	1,399	2,106	3,827	3,871	4,279	5,233	5,486	6,236
Other private services	−23	253	467	1,369	1,578	1,608	1,651	1,512	1,665
Subtotal private services	−225	272	535	2,404	2,891	2,594	3,696	4,303	6,611
Income on investment [1]	2,270	4,143	3,605	9,157	13,126	16,204	18,844	26,598	31,544
Balance on private services and investment [1]	2,045	4,515	4,140	11,761	16,017	18,798	22,540	30,901	38,155
Official and other transactions [2]	−1,805	−1,182	−1,119	2,085	2,671	2,610	2,015	3,446	−3,724
Balance on merchandise trade	4,892	4,951	2,603	9,047	−9,306	−30,873	−33,759	−29,386	−27,354
Balance on goods and services	5,132	8,284	5,624	22,893	9,382	−9,465	−9,204	4,961	7,077

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[1] Includes interest, dividends, branch earnings, and other private payments or receipts. Excludes reinvested earnings of foreign incorporated affiliates of U.S. firms or of U.S. incorporated affiliates of foreign firms, as well as U.S. Government receipts or payments of investment income.

[2] Includes transfers under U.S. military agency sales contracts: direct defense expenditures; U.S. Government receipts/payments for miscellaneous services and of income on U.S. assets abroad/foreign assets in the United States; and net reinvested earnings of incorporated affiliates.

Note.—Prepared by Economic Consulting Services, Inc.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business, March 1981 (for 1979–1980 data) and June 1980 (for 1960–1978 data).

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., November 6, 1981.

Hon. LARRY PRESSLER,
Chairman, U.S. Senate Subcommittee on Business, Trade and Tourism, 233-B Russell Senate Office Building, Washington, D.C.

DEAR SENATOR PRESSLER: In response to the questions in your letter of October 26, the following are my comments relating to my testimony of October 20:

"Appropriate barriers to trade" in services include immigration laws, requirements for national and/or local certification of medical and legal and other professionals, allowing only certified journeymen to work on specific projects, to name a few. The problem is that services encompasses so many different and unidentified industries that the laws which regulate those individual industries are appropriate barriers, in our view. Laws which restrict foreigners from controlling national broadcasting facilities and other strategic industries are also appropriate restrictions. To remove all "barrriers to trade in services" would be to repeal countless laws passed by the Congress to promote the welfare of U.S. citizens and industries.

I do not think it is appropriate to have a "federal coordination mechanism" to develop "service industries," because of the great diversity of service industries, and the need to focus on each subsectorial problem. The United States has a Treasury Department and Federal Reserve System for the banks, a Health and Human Services Department for health and many other services, a Department of Transportation for transportatoin services, a Department of Justice for legal services and a Department of Education for education services. Each of these departments should consider its own area of responsibility. The Office of the U.S. Trade Representative has a responsibility for trade in services, but the individual departments and/or agencies have the kind of expertise that is necessary for the development of those industries.

I hope these comments will be helpful in your overall evaluation in the area of services.

Sincerely,

RUDY OSWALD,
Director, Department of Economic Research.

Senator PRESSLER. Let me conclude by again saying that we will continue this hearing tomorrow, which I think is fascinating in what it's bringing forth. We very much appreciate your being here this morning.

Those are all the witnesses we have. I want to conclude this meeting and we will begin tomorrow at 10 a.m.

[Whereupon, at 12:15 p.m., the hearing was recessed, to reconvene at 10 a.m. on Wednesday, October 21, 1981.]

SERVICE INDUSTRIES DEVELOPMENT ACT

WEDNESDAY, OCTOBER 21, 1981

U.S. Senate,
Committee on Commerce, Science, and Transportation,
Subcommittee on Business, Trade, and Tourism,
Washington, D.C.

The subcommittee met at 10:10 a.m. in room 235, Russell Senate Office Building, Hon. Larry Pressler (chairman of the subcommittee) presiding.

OPENING STATEMENT BY SENATOR PRESSLER

Senator **Pressler**. I will call this second day of hearings to order. This is the continuation of the hearing on the Service Industries Development Act, S. 1233, which is sponsored by Senator Inouye and myself.

Let me begin by saying that increasingly, we are looking at the way our country is treated in trade matters and the way we treat other countries. The whole matter of international trade and investment is one that we as a country must become more aware of and more competitive in. That does not mean to be protectionistic, but we must seek reciprocity in many areas.

For example, we find, and I recently gave a speech on the Senate floor which I put into our record yesterday, that our international carriers landing in London are charged an $8,000 landing fee, while our average is much less. In fact, our average fee is about $400. Our airlines, which are completely private, must compete against international airlines that are frequently state-owned and state-financed, sometimes with low interest loans from some international organizations to which we contribute money. These carriers can then compete against ours, which are paying 16 or 18 percent interest.

In the area of agriculture, we find that the Europeans frequently violate GATT in terms of subsidized exports and we bear the brunt there in trade, although that's not a service area, but it's another example.

In the areas of banking, we heard yesterday and we will perhaps hear today that it's much easier for a Japanese bank to open a branch in the United States than it is for a U.S. bank to open a branch in Japan.

I'm told that in many areas of foreign investment, particularly in foreign investment review laws, it is more difficult for the U.S. citizen investing abroad than vice versa. Oil companies in Canada receive benefits from the government in proportion to the percentage of Canadian investment.

Certainly, I'm not one to advocate protectionism. On the other hand, between the wealthy industrialized countries of the world, there should be reciprocity.

And so we are now looking into the services area. We find that the service sector provides one of our largest surpluses in terms of balance of trade and it is something that we need to pay more attention to. Indeed, we've paid a great deal of attention to manufacturing in terms of GATT. But the surpluses that we're finding are in the agricultural area and the services area.

So this hearing is a continuation of discussions that we began yesterday on the Service Industries Development Act. Yesterday, we received some excellent testimony from the Commerce Department, the State Department, the USTR, the chamber of commerce, and the AFL-CIO.

I might add that the labor testimony added a very interesting dimension to these hearings in terms of the legislation's potential effect on U.S. workers.

I was very encouraged to see the generally high level of interest and action which is occurring in the area of trade in services. The activities of the Federal agencies appear well coordinated and aggressive. This is a positive development and it is coming none too soon. Foreign competition in the service sector will be rapidly increasing during this decade, and if we are to keep our predominant position, we will need to get moving.

Today, we will be hearing from several industry groups: insurance, banking, and telecommunications. These groups have had some of the worst problems in trying to expand overseas and it will be interesting to hear from some of the people who have been directly confronted with these trade barriers.

Before we get to the panels for these industries, we will be hearing from Mr. Harry Freeman of American Express, a company which has activities covering several individual service industries.

I might also say that Senator Inouye has a statement. He is unable to be here this morning as something has come up in his calendar, but he asked me to place this statement in the record:

> I regret that I shall not be able to attend today's hearings, but I have an important previous engagement which I must attend.
>
> Today, the subcommittee will have the good fortune in receiving the testimony of Harry Freeman, who with Ron Shelp, has been among the leaders in the private sector in making the services trade issue so prominent in trade policy debate.
>
> I regret also that I shall miss the testimony from the insurance panel since representatives of that industry have taken the lead in bringing information to the attention of policymakers and in exposing certain foreign practices as obstacles to the trade in services.
>
> Like Senator Pressler, I place great emphasis on the problems we are encountering in the telecommunications area, particularly in transborder data flows. The free flow of information is an absolute necessity to the efficient functioning of multinational corporations. To the extent that our advantage in international telecommunications services exists, it is because of our natural economic advantages, and attempts to reduce our advantage must be resisted. Mr. Hugh Donaghue is particularly well known for his leadership on the transborder data flows. Mr. Parker, general counsel of CBS, represents a company engaged in entertainment and news, the vital contents of telecommunications. CBS' views are vital to us as we explore this issue.
>
> Finally, the banking industry is one of the most important international service industries. The Department of Commerce report released earlier this year noted that banking is the second largest service exporter. It would be desirable to hear the views of the industry on the obstacles it encounters abroad and what actions that industry would like to take in common with other service industries.

Again, I wish to express my gratitude to Senator Pressler, who has contributed much to the discussion which has developed on the international trade in services.

With that, we will hear from Mr. Harry Freeman of American Express.

STATEMENT OF HARRY FREEMAN, SENIOR VICE PRESIDENT, AMERICAN EXPRESS CO., ACCOMPANIED BY NANCY C. MARKS, MANAGER, CORPORATE STRATEGIC PLANNING

Mr. **Freeman**. Thank you very much, Senator. I'd like leave to submit my statement for the record and try and summarize it in a much shorter period of time.

First I'd like to say that I'm here not only on behalf of American Express, but on behalf of the Business Roundtable Trade and Investment Task Force, whose views, delightfully, are the same as American Express.

Second, if you would convey my appreciation to Senator Inouye, who has been a long crusader in this field. We're delighted to meet with you today, Senator Pressler, and appreciate your efforts on this issue. We also appreciate your efforts on the tourism legislation that the President signed the other day.

At the outset, I want to say that with respect to the pending legislation, S. 1233, the Business Roundtable endorses it very strongly. We have some minor comments that I'll get to later on some possible changes, but we endorse the legislation. We are prepared to work with you in the Senate and we're prepared to work with the House, and with the administration so that it is signed into law during this Congress. We think that it is very important. It's a very high priority item for the Business Roundtable.

I'd also like to introduce Nancy Marks from American Express, who is a trade analyst. We're going to start off this morning with a few charts that we've prepared to demonstrate the importance of the service sector. You may be familiar with some of these statistics, but we've decided to get some of this information in a chart and bar form to illustrate the real importance of services.

The first chart (chart 1) shows the gross domestic product of the various major developed countries and a proportion of the service sector. The data is difficult to come by and these are somewhat approximate numbers. But approximations are quite adequate for this purpose. It shows that the United States is slightly over 50 percent on gross domestic products in the services. The second largest service sector is in Japan. Most of the developed countries are in the low 40's to high 30's in percentage of service sector. We suspect that those figures are probably 5 to 10 percent below the truth of the matter because of a lack of data. This bill attacks that problem. The data in this chart comes from the Committee on Invisible Exports in London.

The second chart (chart 2) represents the U.S. GNP, 1979, which shows the major segments. This section, which is about 65 percent, is the service sector, which includes Government at 11.6, finance, insurance, and real estate at 14, wholesale and retail trade, 16, transportation, 9, miscellaneous service, close to 13 percent. But there's your service sector.

One could quarrel a lot over the precise definition of "service sector," but the real point is you can include or exclude construction at nearly 5 percent, but it's still more than half. In that pie chart, agriculture is continuing to decline

The third chart (chart 3) depicts goods-producing versus service-producing employment as a percentage of our U.S. employment, taking out agricultural employment. We're talking about 66 million people in the United States are now in the service sector out of a total of around 92 plus; 72 percent is our best estimate of the combined private and public sector; 75 percent if you take out the Government in proportion. So the service sector is over 70 percent of employment in the United States and continuing to rise.

Goods account for around 30 percent of employment at this point and continuing to decline. That may bottom out.

I'd like to make it clear that we're not talking about services employees or service industries being superior, and agricultural or manufacturing being inferior. We're really talking about present day demography and composition of who's doing what in our country. We're very much in favor of vigorous agricultural sectors and vigorous manufacturing sectors. That's the demography that we have to deal with when we have to deal with our economic and social problems.

The next chart (chart 4) is productivity—an area where we need more statistics. The statistics we use are from the Labor Department, the Bureau of Labor Statistics, which started an index in 1967 at 100. This shows you that the service sector has a much higher rate of increase in productivity than the goods producing sector.

Now there are a lot of different ways, and there's no clear way of measuring productivity in services; in fact, I would argue that there's not a clear way to measure it in manufacturing as well. It's more difficult in the varied industries of services.

But the Labor Department is trying hard to get on top of this. We're working at American Express with the American Productivity Center in Houston to come up with some better definitions, but so far the productivity has increased in the service sector in the aggregates. That will break down and you'll see that industries like insurance, finance, and real estate are really big productivity leaders because of the breakthroughs in technology and data processing and communications.

But the service sector is a high productivity gainer in the United States. We usually see the opposite in print. This chart represents the Labor Department's estimate.

The figures represented on this next chart (chart 5) were referred to yesterday. They come from the Economic Consulting Service, the ECS Study, which was commissioned by the State Department, the Commerce Department, and the Trade Office. This shows their best guess of revenues from abroad. This is not return on investment, but the revenues on sales.

Senator **Pressler**. Why don't you just read down through that. It's accounting, advertising, banking, business/professional technical services, and what else?

Mr. **Freeman**. Construction and engineering, education, employment. Some of the more interesting things here is employment.

The Employment Manpower Co. in Milwaukee, for example, does as much business outside of the United States as inside.

Senator **Pressler**. Who does it supply manpower to? Like to Saudi Arabia?

Mr. **Freeman**. Temporary help.

Senator **Pressler**. Temporary help.

Mr. **Freeman**. The temporary help business is a massive international business. I must confess that I thought it was an American phenomenon. The education business for profit outside the United States by American companies produces over $1 billion in revenue. There are some very interesting things here.

We all knew that banking, advertising, consulting firms, are important service industries. However, industries such as the health business are often overlooked. A lot of American companies are going around the world building and running hospitals of all kinds particularly in the Middle East. This is a major earner of revenue.

Other service industries include the information business, insurance, leasing, lodging, motion pictures, tourism. Transportation, for example, earns close to $14 billion. My company happens to be one of the "others," and that's an estimate. But some of the people in the Commerce Department suggested the $60 billion figure is much too low. Again, this is a lack of data that your bill would address. But at a minimum, $60 billion, that's a lot of money. I don't think that anybody has ever really tried to quantify that.

This is a good study and it has limitations, but it's the best we've got.

And on balance of payments, the last chart (chart 6), this is a pretty familiar story. 1980 was the first year that the United States has had in recent history where we've had a positive balance of payments. The broken line shows the goods merchandise deficit at around $29—well, about $30 billion deficit, and services, up here, close to a positive $35. We have a narrow positive balance of payments in 1980, largely due to the very positive and growing service exports.

Now we must do more to improve our goods and agricultural exports, as well as promoting service industries. This means we have to do more to do both. So it's not this versus that, but this gives the picture of where we are in terms of balance of payments and the role of services.

The second major point I'd like to make is on the bill itself. We believe it is a fine bill. There is one comment I would like to make, which may be a technicality, regarding the role of the Commerce Department and the role of the Trade Office.

We think that the present arrangement in division of labor right now seems to be working very well. As a matter of fact, we think this administration and its Cabinet committees on trade and investment have been working very well together. I only refer to section 5(e)(6) of the bill, which discusses having the Commerce Department providing staff support for negotiations on trade.

The language is not clear as to whether the Commerce Department would be directly involved in trade negotiations, which has been handled by the Trade Office, or whether that is meant to mean strictly staff support.

This, I think, is a minor technical problem, perhaps a wordsmithing issue, but I did want to mention it. Other than that, we think the bill is an outstanding piece of legislation which, as I've said, we're prepared to work hard for in the Senate and the House, and I see no reason why the administration would not be heavily in favor of this bill.

The third point I would like to mention is that it is now reasonably clear that there will be a ministerial level conference in the GATT in November of 1982. GATT ministerials are few and far between. The last one started the Tokyo round.

We think that this GATT ministerial, which will set the negotiating agenda for the rest of the 1980's and probably into the 1990's, is critical and we expect that services will be put on the agenda. The administration is working hard to do that and we would ask this committee, through its oversight function, to help the administration and work with them to make sure that services is given an appropriate spot on the GATT ministerial.

Another point that I would like to make, is that we're now working in a number of organizations, including the U.S. Chamber of Commerce, as well as the Business Roundtable, in developing further legislation which would clarify the Trade Act of 1974 in a way that remedies to trade problems clearly apply to the service sector.

The Trade Act of 1974 defines trade as including both goods and services. But when it was drafted in 1974, because of the lack of service sector input, which is partly service sector's fault, most of the remedies were drafted with a mindset of goods and agricultural exports. We're going through that Trade Act line by line right now. Within a few weeks, we should have a draft bill. We would like to bring it around and get as much support as possible, to see whether the Congress would take a look at it and amend the Trade Act to clarify that the remedies do apply to services.

I'd like to repeat our support for this bill. As I say, we're prepared to actively support it. I have talked to a number of companies in the Business Roundtable and other companies as well. They are all very enthusiastic to work with you, Senator, and your colleagues.

Thank you.

Senator PRESSLER. Thank you very much. Your charts are very helpful. In fact, we had some discussions yesterday about the balance of payments and the contribution that different industries make. I don't think that very many of us realize how significant the service industries have been in terms of a favorable balance.

Let me ask you, you raise concerns about possible jurisdictional conflicts between the Commerce Department and the USTR as a result of this bill. Let me say that the Commerce Department testified yesterday that they currently get involved in bilateral attempts to resolve trade disputes.

Do you feel that there is not room for two agencies to operate in this area?

Mr. FREEMAN. I think there's room for two and there's really a third. The State Department also does get involved.

Where I would be concerned a little, is any change coming from legislation in the present division of responsibilities, which seems to work rather well. I doubt if this legislation is intended to change the division of labor, and I'm really talking about a possible problem in that area, rather than something that was intended.

The State Department has a role in bilateral, as well as multilateral discussions. The Trade Office tends to get very much involved only in negotiations and in trade problems. The Commerce Department is involved in policy, data collection, trade promotion, and in trade disputes as well.

I would hate to see the division of authority changes unintentionally.

Senator Pressler. This bill does not intend the Commerce Department to get involved directly in trade negotiation.

Mr. Freeman. No. That would be fine.

Senator Pressler. Do you feel that multilateral or bilateral talks offer the best chance for resolving the service trade conflicts?

Mr. Freeman. I think both will. This is a question that comes up frequently on the subject. When one talks about the GATT, that's mutilateral or in the Common Market, EEC, in Brussels, that's ~~multilateral~~. There are major studies going on, for example, in OECD, about the service sector.

Specific problems usually come up in a bilateral context and would be handled bilaterally. There's nothing to preclude bilateral negotiations over trade issues, country by country. I don't see why we would not follow a two-track strategy.

Senator Pressler. What sort of organizational structure at the Commerce Department would you like to see created to handle service industries trade promotion or is the current structure of the International Trade Administration adequate?

Mr. Freeman. I think the current structure is fine. I think it was the Deputy Assistant Secretary of Commerce for Investment and Services. We have no real complaints about the Commerce Department. We have praise, as well, for the Trade Office and the State Department.

For example, the recent statement by Robert Hormats, Assistant Secretary for Economics and Business, State Department, was outstanding on the issue. Bill Brock has been outstanding on this issue. And Secretary Baldrige has also been active on this issue. We think that they have good staffs to support these efforts.

The attention being given to the service sector is picking up in the private sector as well, so we have no specific complaints and suggest no change in the organization.

Senator Pressler. I have a question here from Senator Inouye. He says, many companies confronting problems abroad do not have the skills American Express demonstrated in Germany in its credit card victory.

Mr. Freeman. We won't tell the Germans that.

Senator Pressler. By the same token, they appear to be reluctant to bring their problems to the Government in fear of antagonizing a foreign government. How can the private sector be made more comfortable with Government and how, in turn, do you think Government can be more sympathetic to the private sector's concerns?

Mr. Freeman. I don't think those of us who are familiar with international trade issues have much of a concern about such things as confidentiality. Our experience with the State Department, with the Commerce Department, and with the Trade Office is that if we go to them and talk confidentially, that confidentiality is respected. You always have the question of when you, for example, file a formal complaint of record of a trade barrier in a foreign country, that it gets public—and that does escalate very rapidly. You have to weigh the tradeoffs.

But I don't think that's all that different from any other kind of confrontation or dispute in the domestic context. I think that many companies of all sizes could handle that type of thing.

I think that the Trade Office, in particular, is set up in a way to handle all sizes of companies and to assist them in this kind of thought process. This could all be done quite confidentially. They're set up, as well as Commerce, to handle this type of thing.

I don't think that that is a problem, really. It may be a problem for those unfamiliar with the system. Once you get into it, you realize that they know what they're doing.

Senator PRESSLER. You have noted in your testimony that some companies still do not perceive themselves as part of the service sector. How do you believe that they can best be encouraged to join companies that already are aware of the problems and are working on them?

It has been suggested by some that the most interested and active companies join in a corps coalition group to disseminate information on important Government and private sector initiatives. Please comment. That's Senator Inouye's second question.

Mr. FREEMAN. I'm delighted to comment. First, there has been a major leap in the existing organizations in the business world. I'm now delighted to hear of the AFL's testimony yesterday. For example, the Business Roundtable has a special committee on services. The U.S. Council of International Chamber of Commerce has the same thing. So does the Chamber of Commerce. And now there's a lot of discussion among service sector companies about the possibility of a new grouping of solely service sector companies. This group would work in Washington and also work around the United States to help to get more companies involved to make this kind of self-identification which would be of benefit to them directly through working on their issues and other companies' issues.

There's a major jump in the interest abroad in the European countries. I was just in Bonn last week talking over these issues with people in both the German Government and the private sector in Germany. We also see that there's a new committee in the Kidan Ran in Tokyo concerning the service sector. I suspect that all of a sudden we'll see a major Japanese drive in this area.

I think there is a lot of organizations already getting into it and I suspect in the next year or two there will be other new organizations of service sector companies. There is a problem in this question of service sector—it's not a familiar concept to a lot of people. But as these statistics, which are compelling, get around and people see that it's in their self-interest to identify with the service sector, that will be a self-liquidating problem.

Senator PRESSLER. Mr. Freeman, I have no further questions and I have completed all of Senator Inouye's questions.

Mr. **Freeman**. Senator, I did have one other point. I was thinking this morning about the agricultural sector and its linkage with the service sector. I was visiting our Washington office and I said, who's got any ideas on that, and somebody picked up the New York Times this morning. On page D–21, the business section talks about "Computer Jobs on the Farm."

It's a very interesting article about the intersection of the data processing business and the agricultural sector. So, while I used to be a traveling salesman in South Dakota and it's largely an agricultural State, there is a major connection. I thought that I would mention that.

Senator **Pressler**. Well, there it is. I've got 60 acres that I farm in South Dakota. It's amazing to me how much it has changed in the last few years in terms of the need to test the soil every year and take it to a cental point to find out what fertilizer to put on. You apply fertilizer twice—once when you plant the corn and once when you cultivate it. You apply chemicals twice to kill the weeds, once after it's planted and once after the third cultivation.

You are really dealing with toxic materials and complicated matters that do require a computer. I'm sure that this will increasingly be true in agriculture in developing countries.

Mr. **Freeman**. Well, I suspect that there's a lot of technology that's used in agriculture in your State and other major agricultural States that's now being exported and will be a major source of greater exports.

I think, getting back to my original thesis, the more we in the private sector and the Government perceives that role, the better off we all will be.

Senator **Pressler**. Thank you very much. It's very interesting testimony, very useful.

Mr. **Freeman**. Thank you.

[The statement follows:]

STATEMENT OF HARRY L. FREEMAN, SENIOR VICE PRESIDENT—OFFICE OF THE CHAIRMAN, AMERICAN EXPRESS COMPANY

Mr. Chairman and distinguished members. My name is Harry L. Freeman and I am a Senior Vice President in the Office of the Chairman of American Express Company. I am pleased to be present today to testify on behalf of the Business Roundtable Trade and Investment Task Force.

We testified on a similar bill in 1980 and I am pleased to be before this Committee today to testify on the Service Industry Development Act, S. 1233. We would like to commend Senator Pressler who has taken an active and important role in recognizing the importance of the service sector and in promoting the interest of this vital and dynamic part of our economy. We would like to commend Senator Inouye for his very important and continuing interest in the service sector and with whom I had the privilege of working these past years on this issue.

The United States has become a service sector economy. The service sector is one of the most dynamic components of U.S. economic growth and international competitiveness. It is time for us to recognize this reality and to develop policies which maintain and improve the vitality and competitiveness of the service sector.

The testimony on this bill will stress the service sector. At no time are we suggesting that we are not interested in the growth and health of the manufacturing sector, the agricultural sector, or the mining sector. We state this because some of the comments might be interpreted to be some kind of preference for services or abandonment of policies to maintain vigorous other sectors, and we wanted to clarify that point at the outset.

For too long, the service sector has been ignored in both domestic and international policy. What we need to do now, not tomorrow or next year, is to recognize the change in our economic structure and actively incorporate services into our policy decisions.

The Service Industries Development Act is an important step in this direction. There are three areas which require immediate government attention: (1) the collection of data on service industries; (2) the incorporation of services into U.S. trade policy; and (3) the need for legislation granting services equivalent consideration in U.S. tax policies.

The data we have on services is seriously inadequate for fine analysis. Yet the statistics that are available decisively demonstrate the significance of services both at home and abroad.

These charts help demonstrate the role of the service sector.

The U.S. is the world's most important service economy as these figures from the Committee on Invisible Exports in London demonstrate. Even if we exclude government services from the service sector, 51 percent of our nation's gross domestic product is derived from services.

As those figures from the Department of Commerce demonstrate the value added to the U.S. gross national product (GNP) by service producing industries in 1979 (the latest year of complete figures) totaled or 66 percent of total value—$927 billion measured in terms of constant (1972) dollars.

According to the most recent estimates of the Bureau of Labor Statistics, as of May 1981 approximately 66 million people out of a total of 92 million non-farm labor were employed in services (72 percent). If we exclude government employment, out of a total of 74 million employed by the private sector, 54 million people are employed in the service sector (75 percent).

According to the most recent data of the Bureau of Labor Statistics, service sector productivity has grown twice as fast as productivity in the goods producing sector. From 1967, the base year used by the Bureau, to 1979, total factor (i.e. labor and capital) productivity in the service sector increased by twenty percent while productivity in the goods producing sector increased only ten percent.

Such productivity improvements will become increasingly important in an era of government and corporate budgetary constraint. The most noteworthy improvements result from the increased utilization of high technology inputs in the production process of many service producing industries. Service industries which have demostrated markedly improved productivity include communications, finance and insurance and air transportation.

Services industries contribute to the stability of the economy. For example, consumer spending for services appears to be less sensitive to economic recession than other sectors of the economy. During the most severe post-war recession in 1974–75, consumer spending measured in constant (1972) dollars registered declines of 7.6 percent for durable goods and 1.8 percent for non-durables. This was in sharp contrast to personal consumption of services which registered a 2.3 percent advance.

We cannot overlook the important synergistic relationship between the service sector and the other segments of the economy. Services make industrial production and international trade possible. Banks, brokers, insurance carriers, employment, travel, and advertising agencies and other services facilitate the smooth flow of goods and other services. Service activities abroad also create demand for procurement of manufactured products from the United States. Services have not displaced other factors of production but have rather become an integral element in the production and distribution of goods.

Services play a vital role in U.S. trade. Indeed trade in services is the major trade issue of the 1980's.

Attached to our testimony is a study on service exports commissioned by the Departments of State, Commerce and the United States Trade Representative. This study, done by the Economic Consulting Services Inc. in Washington, indicates that U.S. service exports were about $60 billion in 1980. What is fascinating are the components of these exports—they include some industries most of us would be surprised to learn are major export earners—for example, education services, health services and temporary employment.

The components are shown on this chart:

Estimated foreign revenues of the U.S. services sector, 1980

[Dollars in billions]

Service industry:	*Foreign revenues*
Accounting	$2.35
Advertising	2.05

	Foreign revenues
Service industry:	
Banking	9.10
Business/professional technical services	1.07
Construction and engineering	5.36
Education	1.27
Employment	.55
Franchising	1.26
Health	.27
Information	.60
Insurance	6.00
Leasing	2.35
Lodging	4.60
Motion pictures	1.14
Tourism	4.15
Transportation	13.93
Subtotal, 16 service industries	56.05
Miscellaneous financial services, communications, et cetera	[1] 4.00
Total of U.S. services sector	60.00

[1] Estimated.

Source: The Economic Consulting Service, Inc.

As this chart based on Department of Commerce figures shows, the favorable services trade balance has grown dramatically while at the same time the U.S. has suffered a serious deficit in its merchandise trade balance. In 1980 services were responsible for the first overall surplus in the balance of payments position of the U.S. since 1976. In the past decade, earnings derived from services expanded at a 19 percent average annual rate—twice the pace of the previous decade.

According to the latest figures of the Committee on Invisible Exports in London the U.S. accounted for 20 percent of total world trade in services.

These figures suggest the vital and growing role of services. But in order to develop effective policies we must have a more precise picture of the service sector, better data and mechanisms for measurement must be developed. One of the major conclusions of the ECS study I have cited is that "there are significant shortcomings in the available data." The provisions of the Service Sector Development Act will ease this situation. We cannot overstate the importance of adequate resources and personnel to collect data. More detailed information is essential in order to address effectively service sector concerns.

Another need, addressed by the Service Industry Development Act, is U.S. trade policy. For the moment the U.S. is the number one exporter of services in the world. However, our position is being challenged. Increasingly, we are encountering trade barriers which other countries have erected and continue to expand.

The growing importance of U.S. service exports must be taken into account in U.S. trade policy. In the past, trade policy has focused exclusively on promoting the export of U.S. goods and on the problems of foreign goods flowing into the domestic market—on cars, steel and shoes, for example. This perspective must now shift to include barriers confronting U.S. exports of services. We cannot drop the traditional sectors such as—steel, shoes and textiles. But we cannot afford to ignore our total future. Both are essential. Growth of services and manufactured goods, particularly high technology, go hand in hand.

Confronting barriers to trade in services will not be an easy task. Barriers faced by exporters of services are different from those faced by exporters of goods. They include, among other things, discriminatory regulations, prohibitive employment laws and preferential treatment for domestic industries.

While the U.S. has some barriers, I can assure you that we are, relatively speaking, a haven of free trade in services in the world. Therefore, we need a regime based on reciprocity and equal treatment.

We commend Senators Pressler and Inouye for including in S. 1233 the important role services play in trade. However, we must caution the members of this Committee against creating a possible conflict of jurisdiction between the Department of Commerce and the Office of the U.S. Trade Representative in this area. Work on trade in services commenced in the preceding Administration, and is proceeding well under the current Administration. For example, the Cabinet Advisory Council on Trade Negotiations chaired by United States Trade Representative Brock has committed itself to giving "high priority" to trade issues relating to services and has given the Trade Representative a mandate to pursue that policy both domestically and internationally.

The Department of Commerce has an important leadership role to play in services. Commerce must have the lead role in key data collection, policy formulation and trade promotion. However, on the trade negotiations and dispute settlement side, USTR must clearly have the lead mandate. We must not inadvertently undermine the effective structure USTR has established. Certain provisions such as Sec. 5 (E) 6-7, involving the documentation and resolution of trade impediments to services, appear to belong under the authority of the USTR. The USTR has already done excellent work compiling non-tariff barriers to services. Both the Interagency Task Force (ISAC) under the Department of Commerce and the Services Policy Advisory Committee under the USTR are operating well. This work should continue. We suggest the staff clarify this area between Commerce and USTR.

It will be essential for Congress to take an active role in the development of U.S. policy on services. Unfortunately domestic policies tend to focus on manufacturing and neglect service sector companies. For example, the recent tax legislation did little for services. This bill is deficient in two specific areas: (1) Accelerated depreciaton schedules apply to capital intensive industries, but not to service sector operations which are usually labor intensive. This tax change is important but it must be expanded. (2) The Research and Development tax credit provision applies clearly to products and not as clearly to services. It is essential that Congress takes measures to remedy this imbalance. We hope that the Service Industry Development Act will alter the focus of policy and redress the balance.

One of the most important roles Congress can play is through oversight. We must work together to increase the visibility and awareness of service sector issues within both government and the private sector through the Service Industry Development Act and hearings such as these. The issues are complex. We must examine and better understand them. Congress must also exercise its oversight powers in supervising the implementation of service projects within the government.

The issue is not an easy one. Tackling it is both conceptually and practically difficult. The service sector encompasses everything from advertising and education, to banking and insurance, to transportation and tourism. Only recently have individual service industries begun to perceive themselves as part of a larger unit. Unlike the agricultural and industrial sectors, there has been little analytical work done on services to define the commonality of interests and develop the data base necessary to pursue international negotiations.

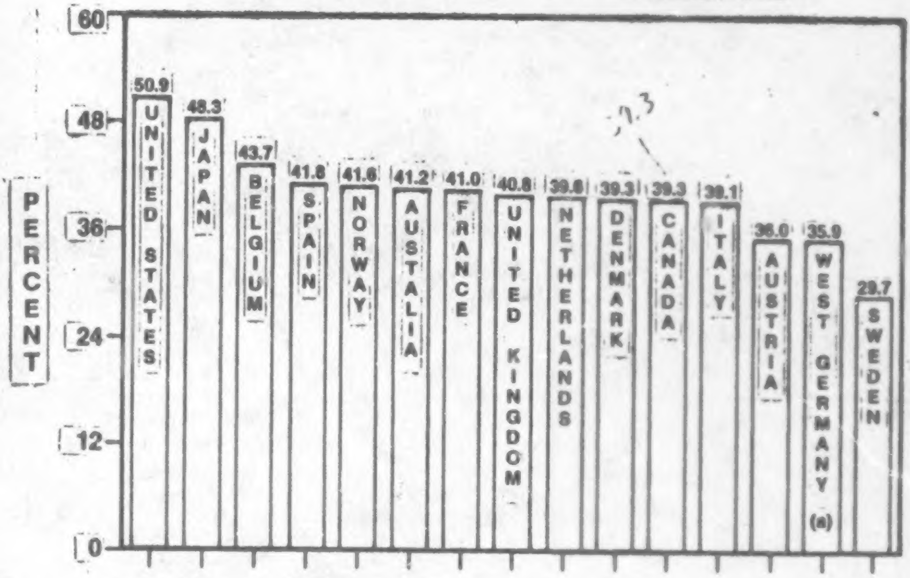
Furthermore, many of the services such as banking and insurance are regulated by state and/or federal law—causing an even greater fragmentation of the issues and industry cohesion.

While recognizing these problems, let me stress that they are not insurmountable. It will require a grat deal of time, effort and support from both the private and public sectors in order to deal effectively with the obstacles confronting services. On October 2, for example, the International Chamber of Commerce in Paris called for both unilateral and multilateral negotiations to reduce barriers to exports and imports of services. By definition this and other efforts will require close cooperation between business and government, between different departments and agencies of the Executive branch, and between the Executive branch and Congress. But given the importance of the service sector today, and the even greater role it will play in the future—the time to begin this effort is now. Passage of the Service Industries Development Act is the first step.

Thank you for your attention. I would be happy to try to answer any questions you may have.

CHART I

SERVICE SECTOR PROPORTION OF GROSS DOMESTIC PRODUCT* - 1978

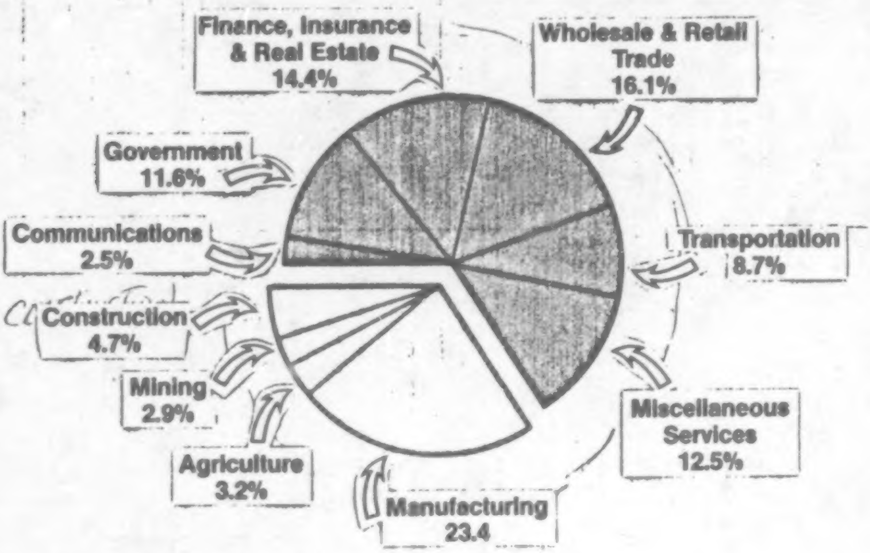


* Excluding Government Services
(a) Data Not Directly Comparable

Source: Committee on Invisible Exports (London)

CHART 2

COMPOSITION OF GROSS NATIONAL PRODUCT 1979

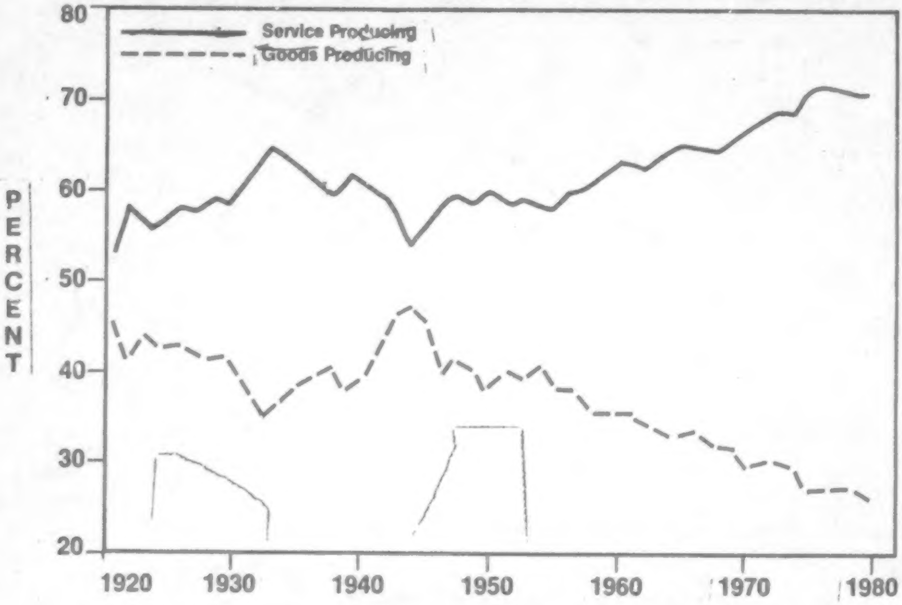


Shaded Areas=Services

Source: U.S. Dept. of Commerce, Bureau of Economic Analysis

CHART 3

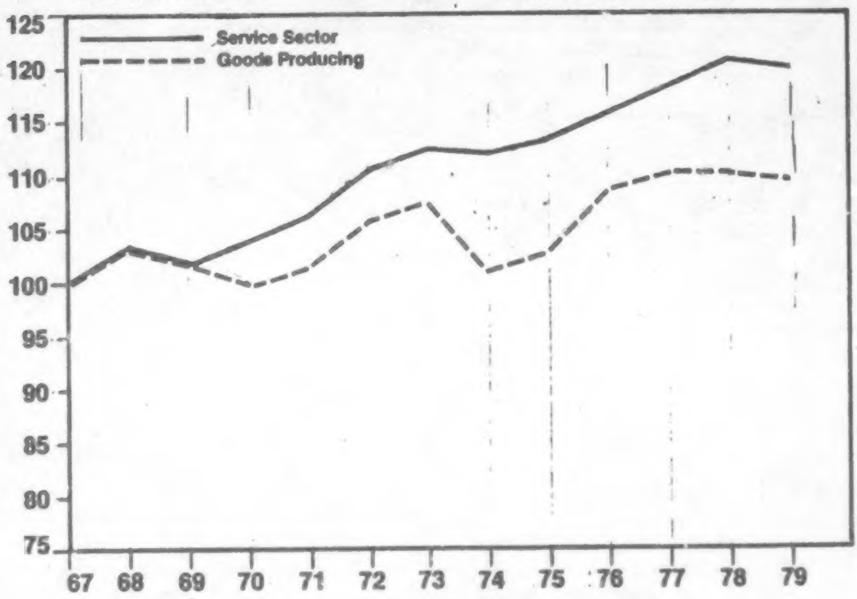
GOODS PRODUCING VERSUS SERVICE PRODUCING EMPLOYMENT AS A PERCENTAGE OF TOTAL NONAGRICULTURAL EMPLOYMENT, 1920—1980



Source: U.S. Dept. of Labor, Bureau of Labor Statistics

CHART 4

SERVICE AND GOODS PRODUCING INDUSTRIES TOTAL FACTOR PRODUCTIVITY (1967=100)



Source: U.S. Dept of Labor, Bureau of Labor Statistics

Chart 5.—Estimated foreign revenues of the U.S. services sector, 1980

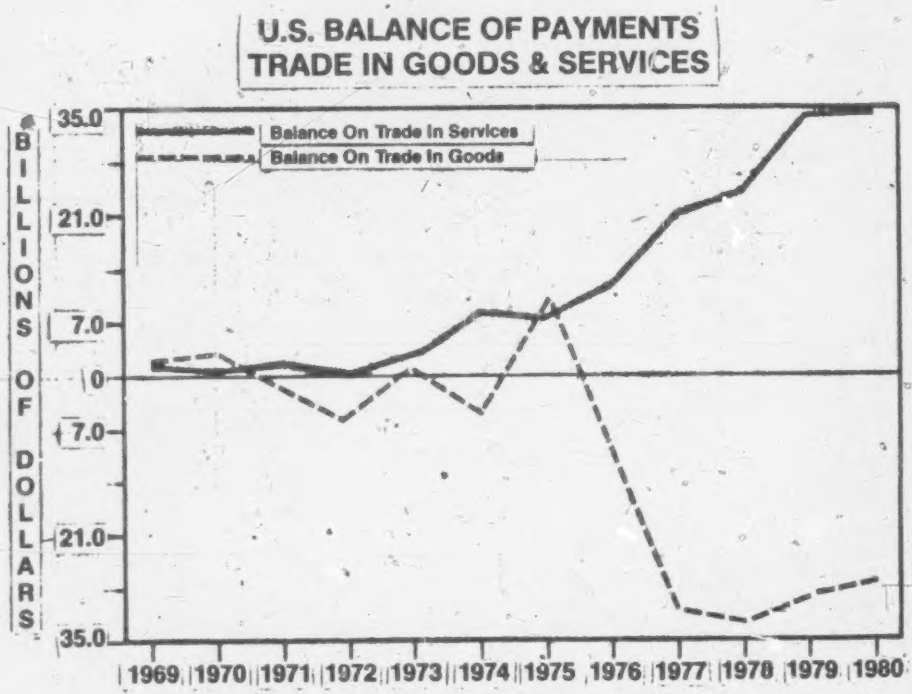
[Dollars in billions]

Service industry:	*Foreign revenues*
Accounting	$2.35
Advertising	2.05
Banking	9.10
Business/professional technical services	1.07
Construction and engineering	5.36
Education	1.27
Employment	.55
Franchising	1.26
Health	.27
Information	.60
Insurance	6.00
Leasing	2.35
Lodging	4.60
Motion Pictures	1.14
Tourism	4.15
Transportation	13.93
Subtotal, 16 service industries miscellaneous financial services, communications, et cetera	[1] 4.00
Total of U.S. services sector	60.00

[1] Estimated.

Source: The Economic Consulting Service, Inc.

CHART 6



Source: U.S. Dept of Commerce, Bureau of Economic Analysis

THE INTERNATIONAL OPERATIONS OF U.S. SERVICE INDUSTRIES: CURRENT DATA COLLECTION AND ANALYSIS [1]

PREFACE

This is the final report submitted by Economic Consulting Services Inc. (ECS) in connection with Contract No. 1722-020164 of the U.S. Department of State, entitled The International Operations of U.S. Service Industries: Current Data Collection and Analysis.

This study was carried out under the direction of Stanley Nehmer. Christopher T. Mark was Senior Project Coordinator. Principal Investigators were Bruce Malashevich, Mark Love, Clark Chandler and Diana Hastings, assisted by Marci Dobal, Robin Hill, Clarisse Morgan, Denys Resnick, and Lynn Wino.

Work on this project commenced on October 1, 1980; a preliminary draft report was submitted on January 30, 1981, and a draft final report was submitted on May 6, 1981. Both of the earlier versions of this study were reviewed and discussed in meetings arranged by the State Department between the principal members of the ECS project team and representatives of interested U.S. Government agencies. Following each of these sessions, appropriate changes were made in the text of the report.

In addition to the guidance provided by officials of the U.S. Departments of State and Commerce, the Office of the U.S. Trade Representative, and other U.S. Government agencies, the ECS project team was immeasurably aided by the advice and suggestions offered by more than 60 firms and industry associations in the private sector with which the project team consulted during the course of this study. In addition, the membership of the International Services Industry Committee of the Chamber of Commerce of the United States functioned informally as an ad hoc advisory council throughout the duration of the study.

The views expressed in this report are those of the contractor and do not necessarily represent the views of those consulted during its preparation, nor the official views or policy of the United States Government.

EXECUTIVE SUMMARY

In historical perspective, the United States appears to be evolving into a "service economy," in which the production of physical goods accounts for a steadily declining share of the Gross National Product.

Such a fundamental shift may be an inevitable feature of economic advancement; other industrialized countries appear to be undergoing similar changes. The increasing prominence of service activities in the economy is clearly linked to a country's rising levels of overall prosperity and affluence. In a domestic context, this may generally be regarded as a welcome development.

However, the evolution of a "service economy" necessarily has profound implications for a country's international economic situation. How successfully the United States manages the transition—especially in comparison with similar adaptations by its major trading partners—will increasingly depend on maintaining and improving the U.S. competitive position in international services transactions.

The purpose of this study is to examine the current system of international services data collection and to evaluate the data being generated, in order to identify the essential facts and trends which define the commercial interests of the United States in this area. Because the issues and problems involved are relatively novel, the presently available data are in most cases incomplete and in some cases seriously inadequate for the potential needs of policy-makers. The analysis contained in this report is designed to assess the strengths and limitations of existing official and private sources of international services data, in terms of current and potential U.S. commercial-policy requirements.

The study is based on the assumptions that (a) its results should help to focus and support the development of new or modified international economic policies appropriate for the United States as a "service economy," but that (b) a fundamental rearrangement of official statistical systems is not likely to be realized over the near to medium term.

In order to consolidate the existing basis for policy analysis and future research in the services field, therefore, the study outlines the key technical aspects of all statistical systems that were identified as relevant to the issue. These are described with respect to international services data collection by U.S. Government agencies (Section II); by international organizations (Section III); and by the private sector (Section IV). Also, Appendix A contains a series of explanatory notes to the entries in Figures C, D and E, drawing upon and reflecting the results of all research reported in Sections II through V; the Appendix may thus be used as an overview and technical index of the entire system of international services data collection.

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[1] This project was funded by the Departments of State and Commerce and the Office of the United States Trade Representative, under Contract Number 1722-020164 of the Department of State. Views and conclusions contained in this report should not be interpreted as representing the opinion or policy of the United States Government.

In Section V are 16 service-industry "profiles" which describe (a) the relevant characteristics of the available data, and (b) the nature of the industry's international operations—in terms of their type, magnitude, importance, location and trends—along with overall estimates of their size.

Taken together, the estimates for all 16 industries yield an "order of magnitude" for the international commercial stake of the United States in the services sector of about $60 billion in 1980. This figure is a level which is nearly two-thirds that of U.S. capital-equipment exports, and is roughly equal to total U.S. exports of all food and consumer goods in 1980. It should also be noted that this estimate is nearly double the amount shown by conventional statistics for U.S. exports of services in 1980. As discussed in the report, the difference is largely due to the recording of many service industries; foreign earnings under the heading of investment income in the balance payments.[2]

The salient points of the analyses for each of the 16 service industries studied, and the approximate magnitude of their 1980 foreign revenues, are as follows:

Accounting: An important "behind-the-scenes" industry in terms of supporting the international operations of all types of U.S. firms, with rapid expansion in foreign activity likely (principally through affiliations of separate, partnerships). Currently generating foreign revenues in excess of $2 billion.

Advertising: Extemely competitive internationally, yet frequently of critical importance in international marketing of all types of goods and services. Approximately $2 billion is presently being generated as the U.S. industry's income from foreign operations.

Banking: Traditionally regarded as one of the strongest of U.S. industries active internationally, facing stiffening competition from other countries' banks locally as well as in third-country markets. Foreign revenue,[3] now in excess of $9 billion, is second only to the Transportation industry among the 16 service industries studied.

Business, Professional and Technical Services: More than just a residual grouping of service activities, this industry in fact may represent "the leading edge" of the U.S. international competitive position. Roughly $1 billion in foreign-sourced receipts in 1980.

Construction and Engineering: A major generator of U.S. foreign business, both in its own right and as a "trail-blazer" for U.S. merchandise exports, the industry faces serious problems in key international markets. Over $5 billion in services provided by the U.S. firms in projects overseas.

Education: An important producer of foreign revenue, based on the international prestige of U.S. centers of learning, increasingly augmented by receipts of entrepreneurial firms engaged in producing and distributing sophisticated learning systems for use by business and industry. Approximately $1¼ billion in foreign revenues.

Employment: Segments of this industry differ considerably with respect to international business prospects. Temporary-placement agencies and executive search firms constitute a dynamic aspect of the U.S. competitive position in services, generating over one-half billion dollars in foreign revenues.

Franchising: An "industry" comprised of firms employing an exceptionally rewarding marketing technique, with widespread international operations that produce over $1¼ billion in revenues.

Health: Like the education industry, the health services industry draws its strength from the international prestige of U.S. institutions, but includes a number of highly-competitive firms providing technical expertise in establishing or maintaining modern health-care delivery systems and their components. About one-quarter billion dollars in foreign revenues are being generated.

Information: Encompassing data processing and computer software services, this nascent industry is likely to be central to the productive structures of industrialized countries in the twenty-first century. Extremely competitive and rapidly developing, the U.S. industry already accounts for more than one-half billion dollars in foreign revenues.

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[2] The specific elements involved in constructing the ECS order of magnitude are outlined and explained in summary form in Table 8 on page 294.

[3] For reasons which are discussed in the report, the estimate for the banking industry is net of overseas offices' interest payments (which, if included, would raise the total order-of-magnitude for the U.S. services sector to nearly $100 billion); estimates for all other service industries (receipts, sales, billings, etc.) essentially concern gross transactions.

Insurance: Traditionally a highly prominent U.S. industry in international markets which plays an essential role in supporting the foreign sales of U.S. business and industry in general. The third largest generator of foreign revenues among U.S. service industries, earning roughly $6 billion in 1980.

Leasing: Another "industry" built around a marketing concept which in recent years has begun to be employed in all sectors of industrialized economies, from manufacturing through marketing and distribution. Over $2 billion in foreign revenues in 1980, with buoyant growth prospects.

Lodging: An industry in which U.S. firms have long been worldwide leaders. The market outlook is highly sensitive to global economic trends, but U.S. establishments' revenues derived from foreigners were in excess of $4.5 billion in 1980.

Motion Pictures: An industry in which U.S. firms have played a leading role internationally, and in which foreign sales have accounted for nearly half of the major U.S. studios' billings. Over $1 billion in foreign revenues are generated.

Tourism: One of the largest single items in international commerce, supporting more than a quarter-million American jobs. Over $4 billion in tourist travelers' expenditures in the United States were registered in 1980.

Transportation: The top ranking U.S. service industry in terms of international receipts, comprised of both airlines and maritime shipping lines. Nearly $14 billion in foreign revenues were earned in 1980.

In Section VI the scope and quality of available data are assessed in general terms. It is shown that current U.S. Government data are fairly extensive in scope, with at least some information being generated on most key variables for the designated service industries. Moreover, to a limited extent some of the "gaps" in the official data series can be bridged with informaiton produced by international organizations and by the private sector.

In more detailed technical terms, however, it is seen in Section VI that important definitional issues must be addressed when the industry-specific data being sought for policy purposes in the services field are compared with balance-of-payments statistics, which are organized in terms of types of economic transactions. It is observed that many of the apparent problems concerning the "quality" of official statistics actually result from expecting the conventional data systems—such as the balance of payments—to support new or modified policy purposes which they were never designed to meet.

It must be stressed that this aspect of the study does not debate the approaches economists have traditionally used in analyzing balance-of-payments statistics, nor does it attempt a critique of the official agencies which are responsible for compiling such data. Instead, the point is made that the emerging concerns about U.S. competitiveness in international services transactions may risk "short-circuiting" the traditional statistical system, by forcing data that have been developed in a domestic context into possibly-inappropriate international applications.

The available data on services are also evaluated in Section VI with respect to three broad types of international activity: exports of U.S.-based service firms; overseas sales by service industry affiliates; and "investment-related" service transactions. The assessment in Section VI shows that there are significant shortcomings in the available data with respect to measuring (a) foreign market penetration by U.S. service industries, and (b) service transactions by industries that are known primarily as goods-producers.

Some concluding observations are set out in Section VII with regard to possible directions for future policy development and research concerning international services trade and investment:

In light of the experiences of the late 1960s, when official and private-sector attention was being focused on non-tariff barriers despite the absence of a well-established data base, it is likely that it will be some period of time before the international services field can be sufficiently "mapped" so that full-scale negotiations on the subject can be pursued.

Although the results of the study suggest it is possible for certain technical modificaitons to be made in the current system of U.S. Government data collection on services, prevailing budgetary and administrative circumstances apparently will preclude extensive changes in the system for the foreseeable future. Some interim measures that might be useful include organizing auxiliary systems of services data-collection, focusing on appropriate "self-help" efforts on the part of the private sector.

In light of the study's findings, it is suggested that an important and promising area for applied economic analysis in the future would concern more detailed identification and measurement of productivity in the services sector, and of the nature and magnitude of the various service industries' "exports."

The study concludes that, notwithstanding the imprecision of the underlying data and the methodological problems involved in its construction, the ECS order-of-magnitude estimate makes it quite clear that the United States already has a surprisingly large stake in the international operations of its service industries. This fact will necessarily be a major factor in shaping U.S. commercial policy for the next two decades and into the twenty-first century.

TABLE 8.—ESTIMATED FOREIGN REVENUES OF THE U.S. SERVICES SECTOR, 1980

[Dollars in billions]

Service industry	Reference [1]	Foreign revenues [2]
Accounting	A-4 (p. 76)	$2.35
Advertising	B-5 (p. 88)	2.05
Banking	C-5 (p. 103)	9.10
Business/professional/technical services	D-2 (p. 113)	1.07
Construction and Engineering	E-4 (p. 126)	5.36
Education	F-2 (p. 136)	1.27
Employment	G-4 (p. 147)	.55
Franchising	H-3 (p. 158)	1.26
Health	I-4 (p. 167)	.27
Information	J-3 (p. 180)	.60
Insurance	K-3 (p. 194)	6.00
Leasing	L-3 (p. 208)	2.35
Lodging	M-3 (p. 220)	4.60
Motion pictures	N-5 (p. 231)	1.14
Tourism	O-4 (p. 247)	4.15
Transportation	P-4 (p. 263)	13.93
Subtotal, 16 service industries		56.05
Total U.S. services sector [3]		60

[1] Entries refer to table numbers in Section V in which derivation of ECS estimates on each industry's international business operations is explained.

[2] Quantities being considered as "Foreign Revenues" vary from industry to industry; see respective tables listed under "Reference" for details. The following key points should be noted:

All estimated quantities are essentially gross transactions (receipts, sales, billings, etc.) except for those of the Banking industry;

Because of the characteristics of international services performed by the Banking industry (see Table C-5), the estimated "Foreign Revenues" are net of overseas offices' interest payments (which, if they were included here, would raise total order-of-magnitude for U.S. Services Sector to nearly $100 billion);

For Franchising industry, estimate has been adjusted to avoid double-counting of certain transactions attributed to the Employment and Leasing industries (see Table H-3);

For Tourism industry, estimate has been adjusted to avoid double-counting of certain transactions attributed to the Education and Lodging industries (see Table O-4);

For Lodging industry, estimate refers to U.S. establishments' revenue from foreigners; industry's overseas receipts are incorporated in estimate for Franchising (see Table M-3).

[3] Includes 16 designated service industries plus communications, non-bank financial services, and miscellaneous services (see test, Section I).

Note.—Prepared by Economic Consulting Services Inc.

Senator **Pressler**. I next call on our banking panel: Mr. Edward Bjelke of Allied Bank International from New York; and Mr. Richard Wheeler, who is substituting for Richard McCrossan, who is the president of Citibank in Sioux Falls, S. Dak.

We are very pleased that Citibank has recently moved a major portion of its operations to the State of South Dakota.

We welcome you here and we welcome your testimony.

STATEMENTS OF RICHARD WHEELER, SENIOR VICE PRESIDENT, CITIBANK, N.A., SIOUX FALLS, S. DAK., AND EDWARD W. BJELKE, SENIOR VICE PRESIDENT, ALLIED BANK INTERNATIONAL, NEW YORK

Mr. **Wheeler**. Mr. Senator, thank you very much. I'd like to respond in the sense of saying how delighted we are and pleased we are to appear before your committee today to comment on S.

1233, the Services Industries Development Act. I'm also here on behalf of my good friend, Dick McCrossan, who is president of Citibank, South Dakota. He has asked me, with your permission, to present to you a statement for the record.

I hope that that will be all right with you.

Senator **Pressler**. Without objection, it is so ordered.

Mr. **Wheeler**. Good. Thank you very much, sir.

My name is Richard W. Wheeler, Rick Wheeler, and I'm a senior vice president in the office of the vice chairman of Citibank. For the many years of my international experience, which include more than 16 years in Asia as line officer responsible for our operations there, on into the mid-1970's, including service in Hong Kong, the Philippines, and Japan, I've been involved and concerned with the role of banking services and that whole sector of the services industries in the international economy.

With your permission, I'd like to read just a few portions of this statement and in the interest of time, perhaps we can pass on because there may be some questions that you'd like to deal with.

I'd like to emphasize, however, that the services industries are, indeed, critical to the continued growth and competitiveness of our economy. The fact that more than 50 percent of our GNP is represented by the services sector and, as Harry Freeman has pointed out, large numbers of employment, is a great strength and a potentially important competitive advantage and comparative advantage in terms of future trading patterns.

We delude ourselves if we feel that the services sector is composed of small enterprises with little worldwide impact. To the contrary, the services sector is where I believe the trade negotiations of the 1980's and the 1990's will be taking place.

As an international banker, I've been keenly aware of the importance of the issue for some time, from the point of view of my own bank, which has been deeply involved in this issue of the services industries in my own country, the United States, as well as the international banking community and the future growth opportunities of many of our clients.

I might add that the international branch network of the U.S. banking system is an extremely important national asset. At the end of 1979, over 150 U.S. banks maintained some 789 branches in more than 100 countries around the world. The assets and liabilities of that branch system alone, not counting the assets and liabilities that relate out of the U.S. banks abroad, totaled more than $313 billion.

In addition, there has been a substantial growth in the number of international affiliates and subsidiaries of U.S. banks.

If I could proceed to another part of my testimony, I'd like to pickup the thought that we in the banking industry have been a microcosm of some of the developments with regard to the services industries. We have seen an extraordinary growth, as I have said, in terms of the banking presence abroad during the 1970's of American banks, as well as a very enlarged penetration of the U.S. banking market in the latter part of the decade of the 1970's.

Part of that led to, as you all know, the passage of the International Banking Act of 1978. There are two aspects particularly of that which we were a major participant in that I'd like to refer to in my testimony.

The first is that we have followed, in my mind, a policy of national treatment for foreign banks. By that national treatment, we mean that foreign and domestic entities within an economy would be subject to the same regulations and eligible for the same benefits and privileges. This policy essentially stems or flows from the OECD Declaration on National Treatment.

I might add, on the other hand, that the concept of reciprocity has surfaced more and more in recent months. Several times, it has been present in part of our policy in the past.

By reciprocity, I feel that people mean, if you will permit me to operate in your country, I will permit you to operate in my country, and if you will permit me to provide a particular range of services, I'll permit you to do the same.

While apparently simple, I would like to suggest that reciprocity can be an extraordinarily difficult policy to administer. It is a policy borne of frustration in many instances. But in today's world, it may well be necessary as a goal or as a factor in attaining the goal of a level playing field represented by shared policies of national treatment.

I'd only reiterate in this connection that reciprocity may in many cases be a precursor or a part of protectionist efforts.

The second aspect of the legislation was the report to the Congress that was mandated of the U.S. Treasury on foreign government treatment of U.S. banking organizations. This study, which was published in September 1979, represented a basic resource document in identifying and analyzing some of the instances of discrimination. It's a very useful reference document even today and might represent the prototype resource document for other services industries.

We are aware of the fact that the GAO has completed some work on an updating of that study and that briefing paper is also of considerable interest to us in the banking system.

Now, it seems to me, Mr. Chairman, that our experience which is reflected in the report indicates that the nature of the services industry and, in particular, banking, lends itself to derrogations from national treatment at the margin; that is, outside of the central scope of activities that are inherent in carrying on the franchise.

By that I mean that the issue is not one of being able necessarily to simply establish a branch or a wholly owned subsidiary; rather, it is how the branch is permitted to operate. In short, does the presence assure us of national treatment? In many cases, I hasten to add, it does not.

I have quoted from the Treasury report some of the taxlike and quotalike restrictions. This list is one that I participated in putting together and I think it gives a graphic indication of the nature of the restrictions which the U.S. banking system encounters abroad, taxlike restrictions which have the effect of increasing the cost of our doing business, or quotalike restrictions, which have the direct effect of inhibiting, if not actually severely reducing, our capacity to compete.

Now I'd like to comment just a bit on these restrictions and how we have dealt with them. Specifically, we have worked, of course, very closely with host governments. I would emphasize that the Treasury Department has been of special help to us in resolving some of these differences. The State Department—of course, yes. The U.S. Trade Representative has been taking more, much more of a position and has been of considerable assistance in identifying issues and initiating studies.

We have also benefited from the Commerce Department's study on service industries.

So all, I would suggest, have been particularly helpful to us. We are conscious of the fact that there are seven departments and/or agencies that impact on our industry, on the banking industry, but at the same time, we are not uncomfortable with that arrangement.

The services industries have, for the most part, been able to establish a dynamic presence internationally. Maintaining that presence, however, in a manner that enables them to deliver the wide range of their products and professional skills is proving to be a continuing challenge.

Part of the problem stems from the imposition of restraints similar to the ones that I mentioned that arose in the Treasury study. There are two other aspects which I have identified here and I think I can briefly summarize those. That is, simply, that in many cases, the services industries are deemed to be in sectors that fall within the national security interest.

We have the same sort of situation in our own country. That is understandable, but that condition which is regarded as a derogation from the treaty of the OECD, or the OECD declaration, is accepted with the understanding that the list will be smaller than larger and second, that the thrust of it will be to, in effect, reflect the national security interest and nonprotectionist sentiments within a given country.

The second sort of paradox which emerges from this is one that has been identified, I'm sure, in previous discussions. That is the recurring tendency on the part of the host governments to impute to the services sector and, in particular, my own, the lack of proprietary knowledge or specific technology that puts us in a position of adding that much more to the existing capabilities of the domestic banking system.

Now the facts of the situation are quite to the contrary. In today's extremely competitive and sophisticated environment, especially in an international environment, no financial intermediary can exist without a high degree of technological capability and based on its own proprietary techniques and services in terms of meeting competition from around the world.

I want to make this point because I've heard in a number of instances Government spokespersons question what is the value added by the presence of international service entities in a domestic economy? The misunderstanding on this point is a very critical one and I think is one that I think your bill recognizes and one that can be explored.

Yesterday, I understand that you had a good deal of testimony on the developments that are taking place in the OECD, the GATT, and in the European community. I'd merely like to record that I chair one of the committees in the BIAC, which is the Business and Industry Advisory Committee to the OECD, called the Capital Movements and Capital Markets Committee.

That committee has been charged by the OECD with the responsibility for instituting a study on discriminatory treatment against international banks, particularly in the OECD countries, but moreover, in some of the developing countries.

Second, I think, as Harry Freeman has identified, we've worked closely with the GATT and we are indeed pleased that there will be this major attention to the subject of the services in November of next year.

But I would also support Mr. Freeman that this initiative requires the greatest degree of coordination on the part of our Government and the greatest degree of support possible.

Now in my written remarks, I've made several suggestions. I would only like to clarify two of them, if I may. And those are simply I know that it can be a bit exasperating to call for better statistical series. What I think I'm trying to say here, because the Department of Commerce, sir, has done an extraordinary job in gathering, in enhancing their efforts to explain the dynamics of the various services industries—what I'm trying to say is that this issue around the world is still deemed in part to be a uniquely American issue. And second, in the minds of some it lacks the definition.

For that reason, I think that the initiatives taken by the Department of Commerce to get a better definition of the statistical nature of the services industry will be a help to all of us.

The second and concluding comment that I would make on this excellent piece of legislation is one that I have alluded to before and that is that there are seven departments or agencies that impact on the role of the American banking system, not to speak of the regulators in addition to that.

My own feeling, as I look from our particular point in banking, as well as other organizations in the services industry, that right now, we have a good balance of effort. I'm not certain that it is timely to designate a particular department as lead.

But on the other hand, I cannot reinforce too strongly the sense of the bill that you have presented calling for the greatest degree of coordination and emphasis on this very, very important subject.

So if I can conclude with that comment and again state our support for the legislation that's being proposed and our willingness to work with you in any way that's possible to assure its passage.

Thank you very much, Mr. Senator.

Senator PRESSLER. Thank you.

Mr. BJELKE. Mr. Senator, I must apologize for not submitting written testimony on rather short notice. However, I certainly endorse the comments made by Mr. Wheeler, particularly with respect to the competitive conditions faced by the U.S. banks abroad.

I am a senior vice president of Allied Bank International in New York. I have served for 10 years as an international bank examiner with the Federal Reserve Bank of New York and have had extensive travel and experience in these areas. Today I wish to speak from the perspective of an Edge Act banker—a banker involved in operating a restricted type of company through which many U.S. banks have expanded their international networks.

By its charter, an Edge corporation can do nothing but international banking business.

Mr. Wheeler has touched on, and there has been a volume of research and work on the discriminatory conditions faced by U.S. banks abroad. But one issue which has not been addressed, to my knowledge in the published works on this matter is the key; our own U.S. regulation of international activities of U.S. banks. In my opinion, the most inhibiting factor is capital leverage limits. Such limits inhibit growth of the U.S. banking system as a whole with particular impact on ability to expand in foreign markets as international needs compete with domestic capital usage on an opportunity cost basis.

The U.S. banks are among the most restricted members of the world banking community in their leverage capacity. In a high interest rate environment of the type we have today, this becomes most important as it is virtually impossible to build a viable asset base faced with high capital costs.

As Mr. Wheeler noted, there has been a significant penetration of U.S. markets by foreign banks in the past 4 to 5 years. Some figures, which I believe were gathered by the Federal Reserve System earlier in the year, indicated that some 30 percent of new commercial business booked in the United States, new commercial loans, were booked by foreign branches, agencies and other affiliates of foreign banks.

In a high interest rate environment, the ability to build assets at lower interest margins, without concern to building capital, is in my mind the key factor in the ability of those banks to penetrate this market. The inability to accept lower margins on a lower capital leverage base greatly influences operations of U.S. banks in penetrating markets.

The second factor is again, related to leverage as it impacts on activity of Edge Act corporations, Edge companies have been the vehicle over the past 20 years which have enabled penetration of foreign markets which are closed to direct branching by U.S. banks.

Again citing the current high interest rate environment and the opportunity costs associated with generating capital in this environment, Edge companies are limited to a multiple of roughly 15 times their capital in risk assets, in marked contrast to commercial bank operations which are generally in the area of a 20 to 25 multiple, and ratios available to foreign banks operating in this country which may approach a 40 times multiple.

To make the Edge a viable vehicle for continuing development in countries closed to branching and direct penetration by U.S. banks, I am very pleased to note that the current proposed bill does provide for a review of U.S. regulation, in addition to a review of discriminatory foreign regulation.

While I share Mr. Wheeler's comment that the division of labor in this effort is certainly well thought out, the absence of statistics to support such a review is the matter that must be addressed.

I thank you.

Senator **Pressler**. Thank you. In Mr. Wheeler's testimony, you list some tax-like restrictions and then some quota-like restrictions. Could you just run through those quickly as to how they differ.

Mr. **Wheeler**. Mr. Chairman, in the sense of an example of differential reserve requirement, for instance, might be that foreign banks in some countries are required to maintain a higher reserve requirement against their assets—pardon me—against their liabilities.

Senator **Pressler**. Would some require a lower reserve requirement?

Mr. **Wheeler**. Well, the domestic banks would be lower. A prohibition against accepting retail deposits exists in many countries where we do business. A prohibition against foreign exchange transactions——

Senator **Pressler**. How does that compare to the way we treat banks, like accepting retail deposits? Can a foreign bank here universally accept retail?

Mr. **Wheeler**. That's right. Once they're in, basically, they are accorded national treatment within the limits that we can provide national treatment within effect, a many tiered banking or financial system.

Particularly vexatious over the years might be such things as the ability to accept a certain type of deposit, the access to rediscount facilities and/or export financing provisions.

Those all tend, as we say, to increase the cost of business, but they can also inhibit greatly our ability to grow along with the banking system and to provide the services to our client base so that we are, in effect, seeing ourselves with the bat taken out of our hands, so to speak.

Senator **Pressler**. And going on, the prohibition against foreign exchange transactions, is that a fairly common one?

Mr. **Wheeler**. Not too common. No, it would not be, sir. It would also depend, in part, upon the structure of the country, whether they have an active foreign exchange market. But, for instance, in a country such as Australia, the whole foreign exchange market is the preserve of a particular type of bank. So if you're not there, which we can't be, as that kind of a bank, we are effectively excluded from the foreign exchange market.

Senator **Pressler**. What about under the quota-like restrictions? You have swap limits. What does that mean?

Mr. **Wheeler**. Yes. A swap is an ingenious device whereby you can generate currency of the country by using the currencies of other foreign countries. For instance, I would borrow from my head office, say, $1 million and sell that to the central bank or in the exchange market of the country where I am. Let's say I'm in Japan. They would give me yen and now I have yen that I can use in my domestic lending activities.

So what I've done is to borrow U.S. dollars, sell those to the central bank, have received yen, and now I can lend yen because yen may be more attractive to some of my borrowers.

Now that would arise in many instances because I have not been able to build a sufficient yen base of deposit by virtue of some of the regulations that could exist in the market. Swap limits are usually set by the central bank or the principal regulatory-authority and can be handed out as a means of placating an international bank in the market by giving them sort of an easy way of getting domestic deposits.

Some of the others, the ceilings on loans in domestic or foreign currencies can quite often arise out of a national policy with regard to credit expansion. But in some cases, we do see those ceilings imposed upon the foreign banks, ourselves included, in a manner that they are not applied to the other banks.

This, of course, as we said then, would restrict our ability to grow and to provide the services to our customers.

Senator **Pressler**. You said that some 150 U.S. banks operate 789 overseas branches. Do you have any idea how many branches of foreign banks there are in the United States? That's something you can submit later.

Mr. **Wheeler**. Well, there are about 160. It's interesting. It's about the same number of international banks that are in our U.S. market as we have banks that are abroad. It's always been a fascinating correlation. They have branches all over the country, but with a concentration, of course, in New York, California, and Illinois, and more so lately in Florida.

Senator **Pressler**. Is your Sioux Falls credit card division going to be affected by this bill?

Mr. **Wheeler**. By the——

Senator **Pressler**. Do you have anything in the credit card area?

Mr. **Wheeler**. Right. Well, to the degree that we can provide a range of services internationally, yes. It, in effect, enhances the overall effectiveness of the product. If we are, for instance, with some of our credit card operations which we are able, thanks to you and your State, to process and to handle, the more popular that card is around the world, the more profitable—pardon me—the more popular that service is around the world, the more that will redound to the benefit of everybody associated with it.

Senator **Pressler**. I might ask this of Mr. Bjelke. The banking industry has been slower than some of its compatriots in the service sector in supporting the use of multilateral negotiations to reduce trade barriers. I don't know if you agree with that statement or not. But why do you think that the banking industry has been hesitant in this area, if you agree or disagree with that?

Mr. **Bjelke**. I do not believe that the banking industry has been hesitant. I think the banking industry has been perhaps not as visible as others. As indicated by the results of studies done in the voluntary foreign credit restraint program, there were perhaps 20 U.S. banks that had significant overseas exposure. These banks generally dealt with their problems on a case-by-case basis with local governments rather than through a concerted group effort.

I think the banks have become quite visible in the period leading up to the passage of the International Banking Act of 1978, with efforts focused on creating the "level playing field" here in the United States. With this now implemented energies can be redirected toward elimination of discriminatory practices abroad.

Senator **Pressler**. What solutions do each of you see that we should be working toward in our negotiations? Would it be seeking national treatment in banking abroad? Would it be seeking reciprocity? If we pass this bill, of course that will highlight the whole issue and it will give us some additional tools to work with.

What should our goal be? What are we looking for in terms of our international banking treatment, both here and abroad?

Mr. **Bjelke**. From the rather narrow perspective of the Edge banker, we're of course most interested in reciprocity on permissible operations in given countries. I would hesitate to introduce a concept of total reciprocity, total national treatment. There certainly are areas where I believe because of local financial requirements and relative financial power of the U.S. banking industry, perhaps U.S. banks do have preferential treatment. In the area of providing management expertise in countries through management contracts where local expertise does not exist. U.S. commercial banks are permitted to assist in and influence development of a local banking industry.

Insisting on a national treatment in a country in that stage of development I think could be destructive.

Mr. **Wheeler**. Sir, if I could respond to that, I suppose this is one of the wonderful things about testimonies. I would come down a little bit on the other side, feeling that the weight should rest with national treatment. I think that should be our sort of sustaining of long-term goals—to move toward the applications of national treatment.

I'm not unmindful, and I'd like to make this point, I'm not unmindful at all of the advantages of reciprocity in the sense that this issue can be used to highlight glaring instances of the absence of national treatment. My concern on reciprocity is, as I've indicated in my remarks, and that is simply that it is both a difficult policy to administer and secondly, it in many instances can, in effect, represent a return to bilateral protectionism.

That's my view. I think national treatment as a goal would have the effect of eliminating the type of tax-like and quota-like restrictions. I won't say "eliminating"; I'll say minimizing, if I may, sir.

But I think that reciprocity would result in a patchwork quilt of a number of treaties and special understandings and arrangements. National treatment should provide what we call the level playing field. So I would tend to put my weight there.

Senator **Pressler**. Thank you very much. We appreciate very much your testimony.

Mr. **Wheeler**. Thank you, sir. It's a pleasure to be here.

[The statements follow:]

Statement of Richard W. Wheeler, Senior Vice President, Citibank, N.A.

Mr. Chairman and distringuished members, I am indeed pleased to appear before the Committee today to comment on S. 1233, the Services Industries Development Act.

My name is Richard W. Wheeler, and I am a Senior Vice President in the office of the Vice Chairman of citibank, N.A. For the many years of my international experience with the bank, I have been involved and concerned with the role of the banking services sector in the interntional economy.

I am also very pleased to submit a statement for the record prepared by our President of Citibank (South Dakota), N.A., Mr. Richard G. McCrossen regarding S. 1233.

I would, first of all, like to join with the others who have justly recognized the leadership represented by Senator Pressler in the identification of the importance of the services sector to our economy, our balance of payments, and our international competitiveness. We are also indebted to Senator Inouye for his continuing support of initiatives to enhance the role of the services industries both domestically and internationally. Obviously, a growing share of the jobs depends on the health of this sector.

A great deal of testimony has already been recorded regarding the aggregate size of the services sector, its relationship to GNP, and the role that the earnings of the services companies plays in our balance of payments. Thanks to excellent testimony you have heard this morning, and in the past, I do not feel that it would be worthwhile to spend much more of the Committee's time or effort on statistics.

I would want to emphasize, however, that the services industries are indeed critical to out continued growth and competitiveness. The fact that more than 50 percent of our GNP is represented by the services sector is a strength and a potentially important comparative advantage in terms of future trading patterns. We delude ourselves if we feel that the services sector is composed of small enterprises with little worldwide impact. To the contrary, the services sector is where, I believe, the trade negotiations of the 1980s and 1990s will be taking place.

As an international banker, I have been keenly aware of the importance of the issue for some time. From the point of view of may own bank, the international banking community, and the future growth opportunties of our clients.

The international branch network of the U.S. banking system is an extremely important national asset. At the end of 1979, over 150 U.S. banks maintained some 1789 branches in more than 100 countries around the world. The assets and liabilities of the branches totalled in excess of US$313 billions. In addition, there has been substantial growth in the number of international affiliates and subsidiaries of U.S. banks. While the banking system is making a major contribution to world trade and development, the earnings represented by that presence have a substantial effect on our own balance of payments.

In many ways, the international importance of the services industries issue can be exemplified by what has happened in terms of international banking over the past years.

Clearly, there has been an explosion in the number of banks involved in international banking with greater market penetration; particularly in the United States.

The rapid growth of foreign banks in the United States during the 1970s prompted a review of the manner in which foreign banks can gain access and operate in the United States. While welcoming the presence of international banks, there was a general feeling that certain inequities existed as a result of relatively diverse laws and regulations. Rather than discriminating against foreign banks, our various laws provided them with several privileges not available to domestic banks. The result of this broad inquiry was the International Banking Act of 1978 (Public Law 95-369).

While there were many significant results of this legislation, there were two which I would like to identify and discuss. The first was the underlying concept of providing "National Treatment" for foreign banks. By national treatment we mean that foreign and domestic entities within an economy would be subject to the same regulations and eligible for the same benefits and privileges. This goal was attributable, in part, to the OECD (Organization for Economic Cooperation and Development) Declaration which prescribed "national treatment" as the normative policy. "National Treatment" has been the guiding principle of our negotiations in the past years. While it is not applicable in all cases, national treatment has proven to be a workable concept.

I might add that, on the other hand, the concept of reciprocity has surfaced more and more in recent months. By reciprocity, I feel that people mean if you permit me to operate in your country, I will permit you to operate in mine. If you permit me to provide this service, I will permit you to do the same. While apparently simple, I would suggest that reciprocity can be a difficult policy to administer. It is a policy born of frustration but in today's world it may be necessary as a goal towards a level playing field represented by shared policies of national treatment. I would only reiterate that reciprocity may be a precursor to bilateral protectionism.

The second result of the legislation was the report to the Congress by the U.S. Treasury on, ". . . Foreign Government Treatment of U.S. Banking Organizations." This study, which was published in September of 1979, represented a basic resource document in identifying and analyzing those instances of discrimination. It is a very useful reference document even today and might represent the prototype resource document for other industries. I might add that the GAO is presently completing work on a similar study.

It seems to me, Mr. Chairman, that our experience which is reflected in the report, indicates that the nature of the services industry and particularly, banking, lends itself to derogations from national treatment at the margin. By that I mean that the issue is not one of being able to establish a presence through a branch or a wholly owned subsidiary; rather it is how the branch is permitted to operate. In short, does the presence assure us of national treatment. In many cases it does not.

The Treasury study identified in table 4.1 on page 15 the nature of the principal tax-like and quota-like restrictions. It might be useful to quote them now.

Most of these restrictions effectively increase operational costs.

" 'Tax-like' restrictions: Differential reserve requirements, prohibitions against accepting retail deposits, prohibitions against foreign exchange transactions, no access to rediscount facilities, and no access to subsidized funds for export financing.

" 'Quota-like' restrictions: Credit/lending ceilings, specified loan portfolio structure, swap limits, required capital to asset ratios combined with capitalization limits, ceilings on loans in domestic currency, ceilings on loans in foreign currencies, and prohibition or limitation on branching."

In dealing with such restrictions, we have, naturally, worked closely with the host governments. In turn, the Treasury Department has been of great help. The U.S. Trade Representative has also been of considerable assistance in identifying issues and initiating studies. Both have been of particular help in supporting our efforts to attract a greater degree of attention to the services sector subject in the OECD, the GATT, the European Community and other international fora.

The services industries have, for the most part, been able to establish a dynamic presence internationally. Maintaining that presence, however, in a manner that enables them to deliver the wide range of their products and professional skills is proving to be a continuing challenge.

Part of the problem stems from the imposition of restraints similar to the ones I referred to in connection with the banking sector.

Two other aspects may be just as pernicious but more difficult to handle. Specifically, many of the services industries; banking, insurance, shipping, surface and air transportation, and communications, for example, fall into a category of activities that are often deemed to be so important that they are described as being in the, "national security interest". As a consequence, a number of laws and regulations may exist, as they do in our own country, that limit or restrict the presence of foreign interests in these sectors. Such derogations from national treatment are recognized and permitted under the OECD code, but the thrust is to keep the list smaller rather than larger in order to minimize the possibility that the process would become a substitute for protectionism. While these exceptions are reviewed periodically, I do feel that we should study the matter more thoroughly to insure that the intent is being achieved. A similar process should be initiated for the major developing countries which are not signatories to the OECD Declaration.

A more subtle paradox emerges between the designation of a given services industry as in the national security interest and the frequently held host country view that the service industry does not possess any special proprietary knowledge which is not already available in the domestic sector. Therefore, the argument runs that the industry should be reserved for the domestic sector.

In reality, the services sectors do possess proprietary knowledge and are, in many instances, owners of the specific technology which is required in an increasingly sophisticated and complex commercial and financial international environment.

I want to make this point because I have heard in a number of instances government spokespersons question what is the "value added" by the presence of an international services entity in a domestic economy. The misunderstanding of the technical expertise and resources added by the presence of international service industries can and often does lead to situations where they are denied access or severely limited in operations on the basis that the domestic entities can provide all of the requisite products and services. We need to maintain a very open dialogue with our trading partners to insure that the decisions reached are also not manifestations of protectionism.

Today, the OECD, and the GATT are moving ahead to focus more specifically on the services issue. While the services sector was regarded originally by many organizations as a uniquely American issue, there is a growing conviction that the subject does indeed impact on the interests of all. The services industries are included in the OECD Declaration and have more recently been included in the "Trade" pledge. Now, however, is a critical time to maintain the momentum which has been created.

As the Department of Commerce has already testified, the OECD is presently undertaking an in-depth study of several of the principal services sectors including banking, insurance, shipping, and construction. The issues involved in telecommunications and transborder data flows have become some of the more critical challenges of the '80s.

As Chairman of the Capital Movements and Capital Markets Committee of the Business and Industry Advisory Committee to the OECD, I and my committee are working very closely with the Committee on Financial Markets of the OECD on a study regarding discriminatory treatment concerning banks in the OECD and in certain developing countries. We hope to have the preliminary results of our study by the first quarter of 1982.

Others have reported to you on the efforts to encourage the GATT to hold a broad inquiry into the services. The GATT Consultative Group of 18 recently reviewed a Background Paper on services, and we will need to continue working closely with the staff there to complement the efforts of the USTR. The European Community is also engaged in a number of studies involving not only banking but other services as well. As Vice Chairman of the U.S. Council of the International Chamber of Commerce, I am indeed pleased that Harry Freeman informed you earlier of the strong position taken by the International Chamber of Commerce on services following serveral seminars held here in the U.S., including one by the U.S. Council.

In an environment of such activity, it is even more important that the initiative represented by S. 1233 be recognized. I would, therefore, like to make the following comments:

First of all, I agree that the data collection and analysis is a very key function. The Department of Commerce is correctly responsible for this process and has recorded a commendable performance. More might be done with regard to: (1) a better delineation of the effect of the services industries in the United States economy, and their international role, (2) perhaps there is more that could be done with regard to the productivity of the sector, and (3) finally, the balance of payments effect needs greater definition.

Secondly, we would support the efforts to identify those provisions of the national and international tax laws which exclude the services sector from benefits accorded other companies who are essentially performing the same function.

Thirdly, the proposal to include the services industries in commercial and noncommercial agreements is extremely important.

It is not for the private sector to determine where in the Government the "lead" role should be assigned. I can state that our views on the importance of this issue have received a sympathetic hearing in several agencies within the Government, and growing recognition of the need for new international initiatives in this area.

Mr. Chairman, may I conclude by thanking you warmly for the chance for Citibank to testify in support of the importance your bill attaches to the services sector, If I can answer any questions or supply further information, I would be delighted to do so.

STATEMENT OF RICHARD G. MCCROSSEN, PRESIDENT, CITIBANK (SOUTH DAKOTA), N.A.

I welcome the opportunity to provide an opening statement for the record on the occasion of the Senate Commerce Subcommittee hearings on the Service Industries Development Act, S. 1233. I congratulate the Subcommittee on Business, Trade and Tourism and Chairman Larry Pressler for having identified the critical importance of the service industry to our national economy and for having the foresight to seek ways to remove barriers and promote the competitiveness of this industry in international trade.

As you know, Mr. Chairman, I am submitting these comments both as President of Citibank (South Dakota), N.A. and as a recently appointed member of the District Council for International Trade, a multi-state organization which includes South Dakota and its neighboring states.

Citibank (South Dakota), N.A. was established in July 1980 and is now a significant employer in the State. Moreover, we will likely more than double our employment in Sioux Falls over the next twelve months. This Bank is a major service industry in South Dakota providing job opportunities for many young people who otherwise might be seeking employment elsewhere. Thus, we and other citizens of South Dakota have a great interest in the efforts to improve the competitiveness of the service industry.

Further, I was recently nominated by the Governor of South Dakota and appointed by the Secretary of Commerce Baldrige to the District Council for International Trade. The goals of the Council are to improve international trade opportunities for companies located in member states.

South Dakota is primarily an agricultural state, and earned about $370 million dollars in farm exports in 1978, the latest data I was able to obtain. However, the state is in the midst of a very important transition from a farming economy to a manufacturing and a service economy. While farming and farm exports will always be important, the service industry is growing in importance to the state and its continued growth is critical to the future of all of us as citizens of South Dakota. For example, employment in South Dakota's service industries increased 40 percent from 1970 to 1980, and while the numbers are still small, the trends are important to our future. Any efforts by Congress to help the service industry obviously helps South Dakota and surrounding states in our transition from an economy heavily dependent on the farm sector.

I make these comments based in part on our own Citibank analysis of the economy of South Dakota. Our findings parallel those of the bill and are commensurate with the objectives of the Service Industries Development Act: namely, that planning data is generally not available and that a more competitive services industry means much to South Dakota.

Again, I congratulate the Subcommittee and Chairman Pressler for identifying the issue and look forward to learning of the results of your hearings and other efforts in behalf of the services industry.

[The following information was subsequently received for the record:]

New York, N.Y., December 16, 1981.

Senator **Larry Pressler**,
Chairman, U.S. Senate Subcommittee on Business, Trade, and Tourism, U.S. Senate,
Room 411, Russell Senate Office Building, Washington, D.C.

Dear Senator Pressler: As I wrote to you before, it was a great privilege and honor to have an opportunity to testify before your committee in connection with S. 1233. Thanks to your support, the services industries are receiving the attention entitled to their significant role in terms of our international trade and investment.

As has probably been explained to you, your letter dated October 26, 1981 was, unfortunately, addressed to me in South Dakota. While I dearly wish at times that I could be back in your state again, I am here in New York. As a consequence, the letter has only reached me. We understand, however, that the record is open; therefore, I am pleased to answer the question which you had posed.

During my testimony, I did mention that other governments question the value of international services. Essentially, in the past years, we have seen a growing acceptance of the importance of trade in services issue on the part of the major countries, especially those represented in the OECD. At the same time, there has been a residual resistance to the elevation of the trade in services issue to the highest levels of deliberation.

Thanks in great part to the efforts of our government and, in particular, the STR, the State Department, Treasury, and, of course, the Commerce Department, the OECD has been persuaded to place this item in its work program and to provide the opportunity for a review of the issue. While we have experienced some progress within the OECD, it is clear that the pace will have to be accelerated if we are to have a credible body of work that can be discussed by the GATT in its ministerial meeting to be held next November. Therefore, I would emphasize that the continued support and efforts on the part of the government and the private sector may be more critical at this point than ever before.

Outside of the OECD community which is analogous to the developed countries of the world, it is clear that there is a growing resistance to the issue of trade in services. The developing countries of the world are still endeavoring to accept the principals of the GATT, and they are inclined to view this initiative as a broadening of the influence of the GATT which could, in their minds, constrain their ability to compete and grow internationally. Secondly, in many of the developing countries, the services industries are the fiefdom of the elites. Since the services industries in many of the developing countries are still in a rudimentary stage of development, there is, natually, a built-in resistance to any measure that would tend to endanger the position of the domestic industries. As a consequence, we will probably need to concentrate our efforts on the OECD and, in turn, to endeavor to work out the problem through the GATT.

I hope that the foregoing comments have been of assistance to you. It goes without saying that I and my associates would be delighted to meet with you or your staff at any time in connection with this very important subject.

With warmest best wishes,

Sincerely,

R. W. **Wheeler**,
Senior Vice President.

Senator **Pressler**. Next I'll call the insurance panel: James Morone, executive vice president of AFIA, from Wayne, N.J.; Mr.

Ray Olsen, vice president, Employers Reinsurance Corp., from Overland Park, Kans.; and T. Darrington Semple, Resident Counsel and Secretary, American Reinsurance Corp. of N.Y.

We will hear first from James Morone.

STATEMENTS OF JAMES A. MORONE, EXECUTIVE VICE PRESIDENT, AFIA; RAY OLSEN, VICE PRESIDENT, EMPLOYERS REINSURANCE CORP.; AND T. DARRINGTON SEMPLE, JR., RESIDENT COUNSEL AND SECRETARY, AMERICAN REINSURANCE CORP., ACCOMPANIED BY THIERRY VERHAEGEN, COUNSEL, INTERNATIONAL RELATIONS, U.S. COUNCIL OF THE INTERNATIONAL CHAMBER OF COMMERCE

Mr. **Morone**. Mr. Chairman, I am James Morone, executive vice president of AFIA, which is the acronym for the organization previously known as the American Foreign Insurance Association and a former chairman of the International Insurance Advisory Council. AFIA operates directly as an insurance underwriter principally in the property and casualty business in about 80 countries of the world through more than 200 offices and with almost 6,000 employees. It has close relations through insurance and reinsurance activities with about 60 other countries.

I am grateful to you, Mr. Chairman, and to other members of the subcommittee for permitting me to testify at such an important hearing dealing with the position of the U.S. international insurance industry. My organization and I are in complete support of free trade and the efforts of the U.S. Government, most notably your committee and subcommittee, to develop and promote it.

I would like to say that I have been with this organization for 34 years and have spent my entire working career in the international insurance field. I have submitted detailed testimony in which discrimination against U.S. international insurance industry by foreign countries is discussed and suggested methods of monitoring and combatting these restrictive practices.

Briefly, barriers placed by other countries to free operation of the U.S. insurance companies may be grouped into eight broad categories.

First, denial of market access. Some governments do not allow our participation in their insurance market, substantially restrict it, or are in the process of eliminating foreign participation. The most prevalent restriction on insurance placement requires that a particular line of insurance be purchased within the domestic market. In more severe cases which are not uncommon, a prospective buyer must not only purchase locally, but with locally owned insurance firms or a State insurance agency.

The second is the discouraging of nationals from purchasing insurance from foreign insurance companies.

Senator **Pressler**. What page are you on? I've lost you here.

Mr. **Morone**. No, I'm just making remarks, general remarks. I'm sorry, Mr. Chairman.

Senator **Pressler**. OK, I'll just sit back and listen, then.

Mr. **Morone**. All right. As the second major type of barriers, the discouraging of nationals from purchasing insurance from foreign insurance companies. Many governments carry out policies which effectively discourage nationals from placing insurance with foreign firms. The most prevalent restriction of this type is the assessment of a tax on insurance placed outside the local market.

Similarly, some governments discourage insurance placement with foreign entities by not allowing domestic policyholders to charge premiums paid to foreign insurers as tax-deductible business expenses, or by treating claims received on insurance policies placed outside the local market as income and thus, subject to tax.

The third barrier is arbitrary and discriminatory licensing procedures. Licensing is the preliminary means used by governments to regulate insurers. Before an insurance company can operate within a market, it must obtain a license for each line of insurance that it decides to sell.

Arbitrary discriminatory licensing procedures have been vigorously applied by some governments as a mean of denying foreign participation in the market, either totally or with respect to certain lines of insurance. Such practices often discourage foreign firms from applying for licenses.

The fourth area is discrimination against foreign branch operations. Branch offices have traditionally been the predominant mode of operations for insurance companies in foreign markets. In recent years, some governments have moved to forbid and/or eliminate foreign branches by prohibiting any further establishment of branch operations and requiring the local incorporation of existing branches.

Other forms of discrimination include delays in granting licenses for branch operations and blatantly discriminatory taxation of branches vis-a-vis local incorporation.

The fifth area is forced localization. In most instances, mandatory local incorporation is accompanied by national majority ownership requirements. Governments can also force localization through discriminatory regulatory policies which make it impossible to stay in business in branch form.

If a government has prohibited further foreign investment in insurance, it can over the long run, force divestment of foreign holdings even without officially requiring. One way is to raise capital requirements, requirements foreign insurers cannot comply with because additional investment is prohibited. To meet such capital requirements, a foreign investor must attract national investors and in the process, dilute his percentage of ownership.

The sixth area is restrictions on remittances. A common practice in a number of insurance markets is a system of exchange control which unreasonably restricts the remittance of funds by insurers, intermediaries or the insured. These practices can take the form of denial of foreign exchange needed, procedural and processing delays in obtaining permission from local authorities to carry out the transfer, or prohibition upon payment of component parts of an insurance transaction.

The seventh area is the restriction on reinsurance, which restrictions on reinsurance placement may take many forms. Most common are compulsory and internal sessions of reinsurance transactions. In some instances, governments require a fixed percentage of all reinsurance to be ceded to private companies within a local market. In other instances, reinsurance must first be offered to local companies before it can be placed outside.

Last, there are widespread restrictions on transportation insurance. Many countries have applied restrictions specifically to transporation or marine cargo insurance. These restrictive practices range from requiring that all imports, and in some cases exports, be insured within the domestic market.

We believe, as pointed out in our official testimony, that a cooperative effort on the part of your subcommittee, the U.S. Trade Representative, and the Department of Commerce, in liaison with the State insurance commissioners and the U.S. international insurance industry, would be of great value in eliminating discriminatory trade barriers which face us.

Again, Mr. Chairman, I wish to thank you for giving me the opportunity and privilege of appearing here.

[The statement follows:]

STATEMENT OF JAMES A. MORONE, EXECUTIVE VICE PRESIDENT OF AFIA

I am James A. Morone, executive vice president of AFIA, which is the acronym for the organization previously known as the American Foreign Insurance Association, and a former chairman of the International Insurance Advisory Council. AFIA operates directly as an insurance underwriter, principally in the property and casualty business, in about 80 countries of the world through more than 200 offices and with almost 6,000 employees. It has close relations, through insurance and reinsurance activities, with about 60 other countries.

I am grateful to you, Mr. Chairman, and to the other members of this subcommittee for permitting me to testify at such an important hearing dealing with the position of the United States international insurance industry. My organization and I are in complete support of free trade and the efforts of the United States Government, most notably your committee and sub-committee, to develop and promote it.

To place my comments in perspective it seems logical to recall that services account for some 25 percent of international trade, that their growth rate is substantially outpacing that of tangible goods and that this trend seems likely to continue. Seven of every 10 Americans are employed in service industries and our country is the largest investor in foreign services.

And yet, regrettably, the United States share of global service trade receipts had dropped from 25 to 20 percent in the past few years. As a representative of one of the largest service industries, I am especially distressed because our country's portion of global insurance premiums fell even more drastically, from 63 percent to 48 percent in the same period. Naturally, the volume flowing to our competitors rose.

Mr. Chairman, if the declines cited were due solely to the intense competition that prevails, the required United States course of action would be clear. We would simply step up our efforts in order to regain and surpass our former status. However, our handicap is not intense but unfair competition.

Nations that do not relish vying on equal terms have set up hurdles that slow us down while they dash on without barriers. Our hope is to help sweep the hurdles out of our path to make the contest a fair one.

To achieve that aim, we must take orderly steps. Our first one is a pledge of support for and cooperation in the passage of the bill sponsored by Senator Inouye and others, S. 1233, the Service Industries Development Act. This would assure greater recognition of our interests in the Department of Commerce. A mandate from Congress would enable that department to come to grips with the difficulties blocking the realization of numerous opportunities to enlarge service trade. We also believe that the Department would find it helpful to consult the private sector on the development and adoption of policies to fulfill the bill's purpose.

We further suggest that the United States capitalize on each and every trade advantage that it enjoys. While remaining dedicated to free trade, we must guard our own domestic interests by reciprocal action against any and all who unfairly thwart our legitimate aspirations.

Mr. Chairman, I will concentrate on the insurance industry in the rest of this presentation. The United States has been hospitable—and more—in welcoming alien insurers to our underwriting community. The reverse is regrettably not always true. Closed doors and other obstacles to the entry of our companies have symbolized the attitudes of some other countries. The ultimate barrier against competition is erected in some nations by their own governments. All such impediments are obviously harmful to United States interests and no less so to international commerce.

Of all the restrictions we face abroad, outright denial of access to insurance markets is obviously the most formidable. Granted, total denial is imposed in limited cases. But when such exclusion is not the main difficulty, an effective substitute often appears in the form of inflexible licensing practices marked by unconscionable delays.

This strategy of dilatory procedure plays havoc with an insurer that has developed marketing plans geared to apparent opportunities. With the optimism that accompanies such ventures, companies assume that if they meet specified conditions, they will gain reasonably speedy approval to begin operations. But months or perhaps years go by with no action except a barrage of requests for further and often negligible information. Sometimes the awaited approval does not materialize. There is no explanation for the denial and, worse yet, no recourse for a reversal. Commitments the applicant has made in terms of resources and staff are irrevocably lost.

One of the prices imposed for access to a foreign market may be local investment. On occasion, local ownership participation and control are demanded. The frustrating effect of such requirements, Mr. Chairman, may be better appreciated when we note that companies operating internationally have invariably found that establishment of a branch office rather than a local subsidiary is the most effective approach in terms of assets required and cost efficency. Operating costs are driven up by localization strictures and inflexible local controls may even persuade insurers to forgo tempting opportunities in foreign markets.

United States insurers have learned that admission to a market is not synonymous with effective access. Admittance may be followed by strategic hindrances such as restriction to writing a single class or line of business. Such limitations handicap insurers in many ways besides the obvious curtailment of sales possibilities.

Forced to specialize, companies cannot bring to the market what is perhaps the most valuable stock in trade of United States underwriters: entrepreneurial enterprise. They cannot favor the foreign market with the impressive expertise they have gained in serving their own domestic customers over the years. They cannot anticipate and develop innovations to satisfy the changing needs and demands of the public seeking protection. Finally, and even more important, they have no incentive to become pioneers in bringing to market new products and services.

The crippling practices so far described, Mr. Chairman, do not begin to exhaust the arsenal of prohibitive weapons foreign countries bring to bear on the United States insurers seeking entry to their markets and those already in them. For example, there are the discriminatory taxes levied on foreign admitted companies. And there are an array of tax practices designed to discourage nationals from patronizing foreign entities. The latters' competitive stance is shaken by such unjustified protectionist procedures. Once again, we see that although admission to a market may be obtained, taxes can convert the foreign insurer into an ineffective, non-competitive presence.

Competitive capabilities can be negated by discriminatory deposit and capital requirements which add substantially to the foreign insurers' cost of operation.

Still another crippling practice is the imposition of exchange controls which unfairly restrict the remittance of funds. The damaging procedures may include denial of necessary foreign exchange; bureaucratic delays in gaining permission to carry out transfers, or prohibition of payment of the component parts of an insurance transaction. It is obvious that nationals can be discouraged from patronizing foreign insurers by rules making it impossible to remit payment to overseas companies because foreign exchange is unavailable.

Turning to the problem of sweeping these and other hurdles out of our path, we readily concede, Mr. Chairman, that any activity comprised of intangibles is obviously more difficult to deal with than enterprises involving material matters. But we respectully disagree with a too-commonly held notion that non-tariff barriers in the service sector are too intricate both in their design and application to be removed.

We believe that if the necessary facts are gathered, restrictive practices can be effectively monitored. As a first step toward that goal, we respectfully suggest that your sub-committee, the United States Trade Representative, and the Department of Commerce obtain data that would facilitate:

Recording the facts concerning United States insurers' access to foreign markets. This record would include such categories as official licensing laws plus government, quasi-government and other procedures and practices that hinder conformity with requirements.

Pinpointing nations that discourage United States insurers' incentive by: excessive capital requirements, exchange controls and/or investment limitations.

Sorting out the United States laws that boost domestic manufacturers' export operations but fail to recognize the insurance and other service sector opportunities that could accompany such transactions.

Sorting out other United States laws that paradoxically promote certain business activities internationally while allowing foreign countries to continue unfair discrimination toward United States insurers and other service industries that might be involved.

Analyzing and evaluating the opportunities for and the potential scope of participation by alien insurers in the United States.

Pinpointing and detailing market situations and practices that foster or permit any non-competitive deals involving bribery, payoffs or other such compensation methods inimical to United States business.

Singling out foreign governments seeking deals with other governments on terms advantageous to their own state-supported or favored companies.

With this extensive data in hand, we can make better informed judgments on shifting conditions in trading affairs over short or extensive time spans. The United States Trade Representative will be able to identify more precisely and speedily those areas where intensified negotiations should be pursued. Finally, our state authorities will be better equipped to evaluate the adequacy of state laws with regard to non-domestic insurers seeking entry to their jurisdictions.

Mr. Chairman, insurance regulation in the United States is largely reserved to the individual states, each of which has an office of Commissioner of Insurance. These Commissioners are excellent sources of counsel and guidance for your subcommittee, for the United States Trade Representative, and for the Department of Commerce. I would suggest that to obtain the data I have described, a channel be established whereby the views of the state insurance regulators, together with those of persons responsible in their states for the supervision of other service industries—be brought to your attention. For insurance, an appropriate medium is the National Association of Insurance Commissioners which, with similar organizations of state regulators of other service activities, might participate in a study of practices and problems facing United States services in the conduct of their foreign operations. I would also suggest, as I have previously mentioned, that the results of such a study, coordinated by and channeled through such national associations of state regulators, would be of most valuable assistance to the sub-committee, the United States Trade Representative, and the Department of Commerce and would greatly serve the welfare of the interested service industries.

Such data from the state regulators could well be helpful to Congress in acting to promote the interests of the American service sector, thus improving our prospects of regaining momentum and advancing our position in the world markets of the future.

In addition to these suggestions, Mr. Chairman, I have a number of additional concepts for your consideration. They are based on the urgent need for action to halt ongoing protectionist ploys and to ameliorate the uncertainty confronting insurers eager to expand overseas.

In our desire to liberalize international arrangements, we are not overlooking the special nature of the insurance business which involves contracts for payment in the future. The fiduciary character of our industry calls for government regulation to assure performance. But regulation must be qualified with the term "reasonable" and it must never become either a protective or an aggressive weapon to advance the cause of domestic firms over foreign competitors.

It follows that future international efforts should center on the basic right of access to domestic markets with the accompanying obligation of conformity to legitimate local regulatory requirements. Future negotiations should aim at commitments providing for access to domestic markets in a manner much like the provision for market access for goods in the GAAT context. After access is gained, national treatment should be the governing principle. Reinsurance and Transport Insurance are both inherently international in character and might require special forms of agreement or understanding.

In any event, we must keep in mind the unvarying goal of open competition in all agreements. We must also recall that we should take into account the necessity of dealing with both developed and developing countries. The latter might well have need for protection of their newborn insurance industries. As such organizations mature, methods of dealing with them would change accordingly. In general, state-owned or controlled insurers should be subject to the same market considerations as other companies.

Mr. Chairman, we suggest the possibility of using the GAAT Standards Code to develop a system of principles for regulatory issues. This new code might be tailored for insurance alone or it might be made flexible enough to be valuable for a range of service industries with similar problems and aspirations. In proposing the potential value of such a code, we have in mind the similarity between government-mandated standards for product characteristics (levels of quality, performance or safety) and government regulations aimed at affecting the quality, performance and safety of insurance services, and possibly others.

The pertinent provisions of the GAAT Standards Code are: A permanent committee which serves as a consultative, information-sharing mechanism; an agreement that signatories will not prepare, adopt or apply standards in a manner which would create obstacles to international trade; the concept of national treatment; transparency of government policies and procedures; some obligation for a federal government vis-a-vis the independent activities of local government bodies; advance notification to other countries before new standards are adopted; consultation process for standards implemented before the code was signed; a dispute settlement process; and, special treatment for developing countries.

In considering the value of a code, we are not so much concerned with the equality of the rules and regulations themselves as we are with their provision of equality of competitive opportunity. That is the goal we believe we share with you and your sub-committee, Mr. Chairman.

As noted earlier, our first step toward its realization is unequivocal backing for S. 1233, the Service Industries Development Act. I feel safe in saying that you and your colleagues can count on the cooperation of everyone connected with the insurance industry.

Again, Mr. Chairman, permit me to express my thanks to you and to the other members of the sub-committee for giving me the opportunity and privilege of appearing before you.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR CANNON AND THE ANSWERS THERETO

Question. Can you identify some of the nationalistic policies which benefit your foreign competitors?

Answer. Among the nationalistic practices affecting American insurers abroad are these: Denial of license to foreign companies; unwarranted delays and regulatory restrictions in processing of license applications; requirements for local ownership participation, often with majority control of subsidiary companies of foreign insurers and prohibition of branch operations; limitation of licenses to permit insurance for only segments of the available markets. Discriminatory taxes against foreign companies; discriminatory deposit, capital and investment requirements; exchange controls on the remittance of funds; foreign staff employment restrictions; government insurance purchases are frequently limited to national insurance companies, either by law or administrative procedures; restrictions on the traditional international flow of Marine insurance and of reinsurance in general, and requirements that determined quantities of reinsurance must be placed in local or regional companies, frequently government-owned.

Question. Do you think it is possible to negotiate an extension of the GATT to services—considering the complexity of the task?

Answer. We believe that it is possible to negotiate such an extension. For example, the GATT provision of access for goods would seem to be capable of broadening to include access for services, which could tend to overcome or alleviate the problem of denial of license or unwarranted and strategic delays in the processing of license applications. The GATT functional code for government procurement presently includes services incidental to the procurement of goods and would seem to be capable of extension to include services in general. Also, the GATT Standards Code for product characteristics applying to quality and efficacy would appear adaptable to the inclusion of insurance and general services regulation in such a manner as to promote equality of international competitive practices. Alternatively, a separate regulatory code could be considered, based upon the principles of the GATT Standards Code.

Question. How do you explain the drop in the U.S. share of service trade from 25 to 20 percent?

Answer. The drop in the U.S. share of the international services from 25 to 20 percent (and in the U.S. portion of overall world insurance premiums from 63 to 48 percent) is traceable, in part, to the increased development and aggressiveness of the service industries abroad and to the increased affluence and buying patterns of the populations of other countries, especially in the more developed ones. The decline is certainly accentuated by the discriminatory practices described above, occurring at the same time that alien insurance companies or their subsidiaries are increasingly entering the U.S. or expanding their operations here.

Question. What sort of measures would you recommend that the U.S. take to guard our domestic interests?

Answer. We would recommend the following:

Passage of S.1233, the Service Industries Development Act, supplemented by the establishment of appropriate implementation procedures.

The gathering and analysis of data concerning the specific nature and areas of discrimination and of U.S. insurance and trade regulations vis-a-vis alien insurers to assist the U.S. Trade Representative, the Department of Commerce and other appropriate agencies in negotiating the terms of trade and service industries' agreements or undertakings with other nations.

Extension of the GATT functional and regulatory codes to include services in general or insurance and reinsurance specifically; or to consider a separate regulatory code based in part upon the principles of the GATT Standards Code.

Amendment of trade agreements to include considerations for the participation of American companies in the insurances on goods shipped from this country.

Enactment by the individual states of the United States of insurance licensing and operational laws and regulations for alien insurers and reinsurers that give due consideration to reciprocal treatment of U.S. companies.

Senator **Pressler**. Thank you very much. We appreciate very much your being here. Mr. Olsen?

Mr. **Olsen**. Senator Pressler, it's an honor and a privilege to be here this morning. I am Ray Olsen, vice president of Employers Reinsurance Corp., cochairman of the Reinsurance Committee of the International Insurance Advisory Council of the U.S. Chamber of Commerce, and a representative today of the Reinsurance Association of America.

The RAA is a trade association comprised of professional reinsurers principally engaged in writing property and casualty reinsurance. These companies write approximately 80 percent of the professional reinsurance premiums written in the United States.

This morning, somebody has already asked me what is reinsurance and perhaps a quick explanation of the function of the insurance of insurance companies might be helpful.

In its simplest terms, if you own an automobile, you have collision insurance, which says that you can afford a deductible of $100 and if your car gets wrecked for more than that, you want someone else to pay the bill. Insurance companies have the same problems in larger dollars. If there is a tornado in Wichita Falls or a cyclone in Darwin, Australia, then the insurance companies in those areas cannot by themselves pay the bills. They need help. And that is where international reinsurance comes in and comes in usually pretty fast and with lots of dollars.

Others have gone into more detail regarding some of the individual problems that we encounter dealing internationally. I have a statement which I have prepared for the record and if you will accept that, I'd appreciate it.

Senator **Pressler**. Without objection, it will be inserted in the record.

Mr. **Olsen**. With regard to balance of payments, at least in our company, we take in more from overseas than we pay out to overseas or that we, in terms of premiums, give to other companies which are overseas.

The operation of reinsurance is such that we require the use of international banking services and we, for example, in the balance of payments run into problems which some of the bankers have alluded to today.

If we had less problems in banking, we could do, as one example, more business in several areas. I understand that a representative from the AFL-CIO yesterday made a comment about being careful on the investment side because it may cost U.S. jobs. I would say that in terms of our industry, if we could have the clear ability to invest as we saw fit overseas, investing our assets and liabilities as we needed to in the balance that we need to keep, it would create jobs in the United States rather than produce them overseas.

So that is an area, I think, that we need to be cognizant of.

Reinsurance, as an international operation, needs to have the freest ability to work that it can. We work with governments in their national insurance and reinsurance entities and sometimes those are very restrictive. We deal with Lloyd's, which is a venerable institution, and we find in many cases Lloyd's receives better treatment overseas than we do, even though we are all doing the same function. And these are the kinds of things that we feel very importantly need to be cleared up so that we can operate in as free a market place as possible.

Mr. Senator, if you have any questions in detail, I'd be glad to answer them.

[The statement follows:]

STATEMENT OF RAY OLSEN, VICE PRESIDENT, EMPLOYERS REINSURANCE CORP.

Mr. Chairman, I am Ray Olsen, Vice President of Employers Reinsurance Corporation, Co-Chairman of the Reinsurance Committee of the International Insurance Advisory Council of the U.S. Chamber of Commerce, and a representative today for the Reinsurance Association of America, a trade association comprised of professional insurers principally engaged in writing property and casualty reinsurance. These companies write approximately 80 percent of the professional reinsurance premiums written in the United States.

Reinsurance is the assumption by one insurer of all or part of a risk originally undertaken by another insurance company. Reinsurance is the single most international aspect of the insurance business. By utilizing reinsurance, insurance companies can achieve the most efficient world-wide spread of risk, the fundamental purpose of insurance. Even in countries where the insurance sector is still maturing, international reinsurers play a critical role by allowing domestic companies to reduce total liabilities to a level appropriate to their premium volume, stabilize operating results, and provide greater capacity to accept new risks. In countries where the insurance sector has been nationalized or restrictive practices against foreign investment have been imposed, the international reinsurance market can still play a vital role by spreading the domestic risks written into the world marketplace. It is also worth noting that even in the United States, which is the largest producer of insurance premium in the world, statistics reflect a recurring annual net outflow of premium dollars to foreign reinsurers. In developing and developed countries, therefore, reinsurance is synonymous with international insurance.

It is against this backdrop that I appear today to support the efforts of the Congress and this Administration to reverse the declining share of U.S. Companies in the world service market. This Committee is well aware of the financial and economic importance of the service sector in the U.S. economy and the favorable balance of trade it brings to the United States. We in the insurance sector can do more. With a consensus in the Congress to advance U.S. service sector interests overseas and the continuing commitment within the Administration to apply that consensus in international trade negotiations and within existing agreements, the U.S. insurance sector can improve its own economic position while aiding the development of maturing world economics and continuing the economic evolution of developed ones.

To do this it must be recognized that the United States already offers one of the least restrictive insurance marketplaces in the world. Governmental policy in insurance encourages the free flow of trade for domestic and foreign entities, inhibited only by the application of fundamental insurance regulatory requirements. We believe the U.S. Government should encourage that this same philosophy be adopted by foreign countries in the treatment of U.S. interests there. In preparation for this task, the United States Trade Representative, in cooperation with the International Insurance Advisory Council, has developed an extensive list of discriminatory trade practices in other countries which preclude or inhibit U.S. insurers from operating or operating effectively. A truly international reinsurance market cannot exist, for example, when confronted with statutory or administrative exchange control restrictions which prohibit proper transfer of funds to meet needs to pay claims in other world markets, or where confronted with restrictions on direct insurers which do not allow credit for the reinsurer's contribution on reserves.

Reinsurers do not principally participate in the simpler forms of cover comparable to the mass portfolios of less hazardous risks which are the normal business of direct insurers. Reinsurance portfolios, therefore, are more exposed and less predictable and reinsurers have consistently sought to achieve a wider international involvement to balance their portfolios. Perhaps the most striking illustration of reinsurance in operation is in the case of natural catastrophes such as earthquake, flood, and windstorm. Risks of these dimensions are beyond the capacity of any national market and their spread on to world markets through reinsurance is a vital safeguard for such individual markets.

The U.S. insurance industry does not seek the elimination of reasonable insurance regulation in foreign countries. The industry seeks instead to have national treatment within those countries by removing practices which perpetuate distinctions based on foreign equity interests. In some markets, for example, foreign reinsurers receive punitive tax treatment, and/or negative interest rates are applied. To this end the United States Government, with the backing of the Congress, should:

(1) Utilize existing bilateral agreements to resolve identified trade problems and to promote freedom of international insurance transactions in general.

(2) Upgrade the government's analysis of potential foreign markets and develop trade opportunities for U.S. services.

(3) Review U.S. laws which may inhibit or discourage foreign investment by U.S. service industries.

(4) Utilize multi-lateral trade fora to identify trade barries to U.S. interests in foreign countries and initiate action to remove them.

(5) Improve the reporting by U.S. officials overseas of foreign government actions and proposed actions which discriminate against U.S. service industries there.

In conclusion, U.S. service industries, including insurance, have faced years of increasing restrictive practices overseas. The Administration has committed itself to reversing this trend if possible and at least holding the status quo in countries considering restrictive measures. The Congress should join this effort by the commitment of support and resources.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR CANNON AND THE ANSWERS THERETO

Question 1. Can you identify some of the nationalistic policies which benefit your foreign competitors?

Answer. (1) Several countries have established national reinsurance companies which then control the inward and outward movement of reinsurance in order to ensure that only the worst risks or the business with the highest catastrophe potential is further reinsured.

(2) Many countries require local insurers to reinsure a percentage of risks to domestic institutions in insurance and reinsurance. This percentage can vary but it is very commonly 40 percent.

(3) Other countries establish punitive taxation measures against foreign reinsurers either as a negative interest tax, assumed profit tax (and in today's environment the assumed profit is never reached) and, of course, the use of punitive corporate taxation.

(4) Additionally, some countries make it impossible, by regulation or administrative practice, to become authorized and in others the difficulty with exchange controls makes ~~the ability to freely do~~ business very difficult at best.

Question 2. Do you think it is possible to negotiate an extension of the GATT to services—considering the complexity of the task?

Answer. Yes; goods and services can be balanced within GATT so long as the United States can see the advantage to negotiate corrections of insurance and reinsurance barriers as preferable to retaliatory measures.

Question 3. How do you explain the drop in the U.S. share of service trade from 25 percent to 20 percent?

Answer. (1) In the first instance, there is more competition worldwide. Many foreign reinsurance firms have entered the United States to take advantage of the immense premium volume on the one hand and the high interest and investment rates on the other. This is especially true of companies from countries from which reinsurance business is stagnating and management is looking for premium growth.

(2) The markets in the lesser developed countries are growing and these markets are keeping as much of the premium volume as they can in their own country which has the effect of reducing the available outward premium which could be written by companies in the United States.

(3) The tendency toward protectionism contributes to the drop in the U.S. share of service trade and, in addition, the U.S. disincentives in taxation, the fear of anti-trust action and the ambiguities surrounding the foreign corrupt practices act make it additionally difficult for U.S. corporations to work the same free hand that our competititors seem to have

Question 4. What sort of measures would you recommend that the U.S. take to guard our domestic interests?

Answer. (1) Assist U.S. service industries whenever asked using whatever means are at the disposal of the U.S. Government

(2) Evidence the political determination (will) to negotiate in all instances where formal or defacto trade barriers exist

(3) Enforce existing remedies such as Section 301 of the trade act and perhaps legislate new ones to provide evidence of our determination

(4) Make it known that the U.S. desires to maintain the accessibility of its own markets, but at the same time, wants other countries to do the same

(5) A special effort could be mounted to talk to countries with special interests in insurance and reinsurance and establish new alliances with those countries and those interests.

Senator **PRESSLER**. All right. We will have some in just a little bit. I next call on Mr. T. Darrington Semple.

Mr. **SEMPLE**. I am T. Darrington Semple, Jr., resident counsel and secretary of American Reinsurance Co. I am a member of the insurance committee of the United States Council of the International Chamber of Commerce. With me is Thierry Verhaegen, counsel for the international relations at the United States Council and secretary of the insurance committee.

We are pleased to appear today on behalf of the United States Council to support your efforts to promote U.S. service industries and enhance their competitiveness in the international marketplace.

We have filed our statement with the committee and to it we have attached a statement of the International Chamber of Commerce. We would request that our statement and the statement of the International Chamber of Commerce be made a part of the record.

Senator **PRESSLER**. Without objection, so ordered.

Is this the length of it here? Is this the statement?

Mr. **SEMPLE**. Yes; they're both attached, stapled together, Senator.

Senator **PRESSLER**. All right. These are statements of whom?

Mr. **Semple**. The first is the statement of the United States Council. The second is the statement of the International Chamber of Commerce, which I will comment on in a minute.

Senator **Pressler**. Well, the International Chamber of Commerce is what, part of our chamber of commerce?

Mr. **Semple**. No; it's the International Chamber of Commerce, of which the United States Council is the American affiliate. It's the International Trade Association, representing international business throughout the world.

Senator **Pressler**. OK. And how does their statement differ from yours is what I'm saying?

Mr. **Semple**. It enhances mine.

Senator **Pressler**. All right, great. They're always leaning on us subcommittee chairmen to keep printing costs down. How lengthy are they?

Mr. **Semple**. They're not that lengthy. The statement of the International Chamber is in two parts. One has an annex to it. If you could print the first seven pages, I think that would be——

Senator **Pressler**. Would that be adequate? Yes; I think that would cover it. All right, fine. Without objection, it is so ordered.

Mr. **Semple**. The International Chamber of Commerce, of which the United States Council is a part or the American arm of, works in an advisory capacity with a wide range of international government organizations, such as the United Nations, the General Agreement on Tariffs and Trade, the International Monetary Fund, the Organization for Economic Cooperation and Development, the OECD, and the European Community.

The United States Council is the only domestic business association that concerns itself solely with international business. The council's insurance committee is a unique group because it represents brokers, insurers, and risk managers, the whole spectrum of the insurance industry.

The ICC on September 30, expressing the views of the international business community, adopted a major statement on the liberalization of trade and services. That's the statement that I had referred to earlier. In its statement, it sets forth its belief that a comprehensive liberalization of international trade and services is necessary to encourage the expansion of international trade in both visibles and invisibles. The ICC urges all governments to undertake to reduce impediments to international trade in services in as far reaching a manner as possible.

Likewise, the United States Council believes that a free market economy and open competition best serves the international interest and the interest of the community at large.

We, therefore, support S. 1233 as consistent with our views and commend the Service Industries Development Act for favorable consideration. The United States has opened its doors to the insurance companies from other countries and they have increased their number and their premium volume in our market. But information about foreign ownership and what portion of the U.S. domestic market is done by foreign insurers is not known.

We do know that the U.S. insurance companies' share of the worldwide premium has dropped in the last several years from 63 percent to 48 percent of the total. This changing distribution of total premium has come about in large measure as a result of the nationalistic policies established to protect domestic insurers that my colleague from AFIA has adhered to earlier.

The Service Industries Development Act will assure the service sector of the attention it deserves in the Department of Commerce. It is important to establish the necessary official authority to deal internationally when private industry can't do it alone. The U.S. Government must take vigorous steps to keep markets open. If it doesn't, the American public is going to put on increasing pressure for more protectionism at home.

Right now, barriers to entry by insurance companies in foreign markets run the gamut of exchange controls, informal administrative practices—that is, putting your application on the bottom of the pile—and outright discriminatory restrictions on foreign insurers, all to protect individual national insurance markets.

Barriers to service industries are different from barriers against manufacturers. They may be subtle, hard to identify, and exceedingly technical. They exist in developed as well as developing countries.

The U.S. insurance industry is regulated at the State level, whereas in other countries, such regulation takes place at the national level. As a result of this fundamental difference, it has been more difficult for Federal authorities charged with the responsibility for international commerce to deal with insurance issues.

A growing support relationship between the National Association of the Insurance Commissions and the Department of Commerce, as well as the U.S. Trade Representative, should facilitate Federal activities abroad on behalf of the U.S. insurance industry. It will also enable the Department of Commerce to fulfill its responsibilities under the proposed bill with a minimum of administrative effort as it relates to the insurance industry.

In this project, we, at the United States Council have offered our support.

In summary, all segments of our membership are adversely affected by barriers to international trade and services. U.S. insurance buyers have difficulty implementing multinational programs. U.S. brokers have problems representing multinational plants, whether United States or foreign.

U.S. insurers or reinsurers have difficulty getting or maintaining a market share. A clear statement of willingness and intent to respond to these concerns will go a long way to resolving them. And we feel that S. 1233 represents such a statement.

Senator Pressler, if I could answer any of your questions, I'll be pleased to do so.

[The statement follows:]

STATEMENT OF THE UNITED STATES COUNCIL OF THE INTERNATIONAL CHAMBER OF COMMERCE

Mr. Chairman, I am T. Darrington Semple, Jr., Resident Counsel and Secretary of American Re-insurance Company, and member of the Insurance Committee of the United States Council of the International Chamber of Commerce (ICC). Accompanying me is Thierry Verhaegen, Counsel for International Relations at the United States Council, and Secretary of the Insurance Committee.

We are pleased to appear today on behalf of the United States Council, to support your efforts to promote United States service industries and enhance their competitiveness in the international marketplace.

The United States Council is the United States national affiliate of the International Chamber of Commerce, recognized throughout the world as the spokesman of international business. The ICC works in an advisory capacity with a wide range of intergovernmental organizations such as the United Nations, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund (IMF), the Organization for Economic Cooperation and Development (OECD), and the European Community (E.C.).

The United States Council is the only major United States business association that concentrates solely on the international marketplace. The Council's Insurance Committee is a unique group that represents the entire spectrum of the insurance service industry—underwriters for insurance and reinsurance companies, international brokerage firms, and risk managers for major multinational enterprises.

On September 30, 1981, the ICC, expressing the views of the international business community, adopted a major statement on liberalization of trade in services. (A copy of the ICC's statement is attached to copies of my testimony filed with the Committee.) In its statement, the ICC sets forth its belief that a comprehensive liberalization of international trade in services is necessary in order to encourage the expansion of international trade in both visibles and invisibles and urges all governments to undertake to reduce impediments to international trade in services in as far-reaching a manner as possible. Likewise, the United States Council believes that the forces of the free market economy and open competition best serve the interests not only of international service industries and its customers, but the community at large. We, therefore, support S. 1233 as consistent with our views and commend the Service Industries Development Act for favorable consideration.

According to Department of Commerce statistics, already read into the Congressional Record for Senators Pressler and Inouye, 7 out of 10 working Americans are employed in service industries, and about 65 percent of the gross national product is service-derived. Yet the United States' share of world services trade receipts has fallen from 25 to 20 percent in the last several years.

The Insurance Committee of the United States Council is particularly concerned with the way in which such general statistics translate into insurance industry results. This country has opened its doors to the insurance companies of other countries. In fact, our industry employs approximately 1.9 million persons and supports annual payrolls of more than $30 billion. Yet, in 1980, the Commerce Department reports that foreign companies paid United States insurers $922.1 million in net reinsurance premiums while United States firms paid foreign insurers more than $2.1 billion. After taking claim payments into account, there was a net outflow of $715 million to foreign reinsurers in 1980 for all reinsurance transactions.

Foreign insurers have increased their number and premium volume in the United States market, but information about such ownership has not been compiled so that the foreign share of the United States domestic insurance market is not readily determinable. We do know that the United States' share in worldwide premium income dropped from 63 to 48 percent over the past several years while the shares of our competitors have correspondingly increased. This changing distribution of total premium volume has come about, in large measure, as a result of nationalistic policies established to protect domestic insurers, giving them an advantage over would-be competitors and aiding them in the really fierce struggle for the markets of the world.

We believe that the Service Industries Development Act would assure the service sector the attention it deserves in the Department of Commerce. In the same context, we are very pleased that a member of that Department will fill an official position with the Insurance Committee of the OECD. The United States Council and its Insurance Committee have already offered their services as an organization to aid in the effort to develop expanded service sector trade through international cooperative means in which the United States Department of Commerce would play a major part.

We believe it is important to establish the necessary authority to deal internationally on an official basis when private industry attempts at such cooperative efforts are unsuccessful. The office of the United States Trade Representative has already developed a computerized listing by country of barriers to trade in insurance in 91 countries; the list is not complete, and the restrictive practices are increasing rather than decreasing. We believe that the United States Government must take vigorous steps to open markets abroad, or keep them open, for United States industries. If it does not, the United States public will exert increasing pressure at home for more protectionism.

Along with the more than 200 top United States multinational corporations that are members of our organization, we strongly favor liberalizing trade—in services as well as commodities. We believe such liberalization will expand the economy of the entire world to the advantage of all countries participating in it. However, right now, barriers to entry, exchange controls, informal administrative inhibitions, and outright discriminatory restrictions on foreign insurers are all in use to protect national insurance markets from competitive influences. Barriers to service industries are different from barriers against manufactured products; they may be subtle, hard to identify, and exceedingly technical. They exist in developed as well as developing countries.

Quoting from Senator Inouye's remarks printed in the Congressional Record of May 20, 1981, ". . . the United States, because of our open economy, has very few legal or administrative weapons to retaliate against foreign countries which erect trade barriers against our service exports . . . and new leverage to achieve our objective of a more open world economy may be necessary to counter the growing protectionism abroad. . ." This statement is particularly true of the insurance industry which is regulated at the state level, whereas, in most other countries, such regulation takes place at the national level. As a result of this fundamental difference, it has been more difficult for the federal authorities, charged with the responsibility for international commerce, to deal with insurance issues. A growing support relationship between the National Association of Insurance Commissioners and the Department of Commerce, as well as the United States Trade Representative, should facilitate federal activity abroad on behalf of the United States insurance industry. It will also enable the Department of Commerce to fulfill its responsibilities under the proposed Bill for a minimum of administrative effort. In this project, too, we have offered our support.

In summary, all segments of our membership are adversely affected by barriers to international trade in service. United States insurance buyers have difficulties implementing multinational programs; United States brokers have problems representing multinational clients—whether domestic or foreign; United States insurers and reinsurers have difficulties getting or maintaining a market share. We believe a clear statement of willingness and intent to respond to these concerns will go a long way to resolving them, and we believe S. 1233 represents such a statement.

Attachments.

Statement of International Chamber of Commerce

COMMISSION ON INTERNATIONAL TRADE POLICY AND TRADE-RELATED MATTERS—POSITION PAPER ON LIBERALIZATION OF TRADE IN SERVICES

Statement adopted by the Commission. At its meeting on 30 September, the Executive Board of the ICC granted the Secretary General advance authorization for the immediate release of this document.

(1) In almost all industrial countries and in much of the developing world the service sector has significantly increased in importance over the last thirty years. By 1978 the contribution of the service sector to Gross Domestic Product was at least as important as that of the industrial sector for nearly all GATT contracting parties, and its importance as a source of employment increased accordingly. As with merchandise, a large part of this service activity does not give rise to international transactions, but in many industries international business has also greatly expanded, and now represents a considerable share in trade flows. Between 1967 and 1975 world trade in services increased by about 6 percent per annum in real terms, and by 1975, exports of services represented over 20 percent of total exports of goods and services for all countries.

(2) Much of this service activity is not conducted purely for its own sake, but is also an essential adjunct to international trade in raw materials and manufactured goods. Though many of the impediments to a free flow of goods have been removed or significantly reduced by the rounds of multilateral negotiations under the auspices of the GATT, many service industries, including, for example, not only the more traditional areas of construction and engineering services, insurance, banking and financial services, legal and medical services and transport, but also tourism, franchising, information and data services, leasing and consultancy, still confront severe government-imposed obstacles to their international operations. These restrictions not only reduce the efficiency of services trade, but also produce unfair competition among the service industries of different nations, and introduce cost

distortions into trade flows of goods. At present these restrictions cannot always be identified or remedied. This is partly because as yet there does not exist an agreed international standard for the treatment of services, which makes it difficult to define the remedies appropriate to resolving problems of unfair competition.

(3) A progressive and comprehensive liberalization of international trade in services is now therefore timely and necessary to reduce the present distortions in such trade. Liberalisation of services trade, permitting greater access for service industries to exercise their activities in foreign markets would act as a stimulus to international trade, and would also often have an innovative effect in local service industries and thus contribute to economic development. The International Chamber of Commerce, with members in over one hundred countries, therefore urges governments of both developed and developing countries to respect and fully implement existing agreements providing for the liberalization of services trade, and to begin the preparations necessary for mutually advantageous negotiations to reduce impediments to international trade in services on a multilateral and, wherever possible, reciprocal basis.

(4) Circumstances in individual countries and existing arrangements in some service markets will influence the pace at which liberalisation can be pursued. At least initially, therefore, the liberalisation of services trade implies:

(a) That all such trade be conducted according to the principles of fair and open international competition;

(b) That internationally traded services originating from any country be subject to equal treatment by the recipient nation (the most-favoured nation principle);

(c) That, where they are not in the wider interests of the service user, restrictions on the ability to purchase services across national borders be reduced in as far-reaching and as reciprocal a manner as possible;

(d) That the above principles, and any departures from these principles which are deemed necessary during the transition to a fully liberal services trade system be subject to periodic review and negotiation; and

(e) That new limitations to the international free movement of services be avoided as far as possible, and that if a situation were to arise calling for futher restrictions, such restrictions be temporary and subject to prior consultation and negotiation.

(5) The ICC welcomes the efforts made in a number of circles to compile information on the trade effects of restrictions on international service transactions, and on specific problems faced by individual industries. It hopes that such efforts will continue. However, the ICC believes that, in addition, it is now necessary to develop practical methods and procedures to eliminate the major impediments to international trade in services, or, at least, to greatly reduce their effect.

(6) In spite of the differences in activity among the different service industries with international interests, the ICC believes that the underlying principles of liberal trade and fair competition are common to all. Thus, although the impediments to liberal trade in individual service industries might appear different in their detailed application, it is possible to them as departures from these underlying principles, in terms of major non-tariff barriers to trade applying to all industries. The ICC therefore puts forward such a classification, which is not exhaustive, which might profitably be used in conjunction with the data at present being compiled in several quarters to develop a framework of obstacles to trade in services which would then serve as a basis for a negotiated liberalisation of this field. (This classification is included as an annex to this document).

Recommendations for action

(7) In the long term, any effective and comprehensive liberalisation of international trade in services must be conducted on a multilateral basis. The extension of the GATT to include trade in services represents the most effective method of achieving this liberalisation for the following reasons:

(a) International trade in goods—which is already covered by the GATT—and international trade in services are governed by the same underlying economic principles, and in many cases the impediments involved—subsidy and regulatory practices, government procurement procedures, technical standards and licences—are similar. The impediments which are more specifically related to trade in services can still be regarded as non-tariff barriers, and should be tackled in a similar manner to the non-tariff barriers discussed during the Tokyo Round.

(b) The application of the most-favored nation principle espoused in the GATT ensures that the benefits from liberalisation will accrue to all nations.

(8) The ICC therefore calls upon all governments to accept that the principles espoused in the GATT system for the regulation of world trade be extended to cover trade in services, and urges them to begin preparations towards multilateral negotiations to reduce existing impediments to international trade in services and to

create an accepted framework for the conduct of liberal trade in services. There have been proposals for a Special Session of the GATT Contracting Parties in 1982, at which trade in services would be one of the items for discussion, and this initiative is welcomed by the ICC. The classification of non-tariff barriers to trade in services set out in the annex demonstrates that many of the obstacles to services trade are similar in principle for many industries (e.g. the existence of subsidies which distort competition, administrative impediments to operation, etc.) and it is therefore possible for the principles of a liberal framework for services trade to be negotiated on an overall multilateral basis, in a similar fashion to the negotiation of the principles espoused in the Codes on non-tariff barriers agreed during the Tokyo Round. This is but a first stage, however, and does not imply that the application in practice of the regulatory measures required for liberalisation will be necessarily of an across-the-board character, as in certain instances the regulation resulting from negotiated agreement on the basic principles for liberalisation will have to be tailored to meet the specific operating characteristics of the different industries involved.

(9) However, the acceptance that the principles espoused in the GATT should be extended to cover trade in services does not imply the exclusion of other fora from this process of liberalisation in the short-term. Important work for trade in services has already been undertaken in other circles, notably the Declaration and Decisions on International Investment and Multinational Enterprises adopted by the Governments of the OECD countries in 1976, and the contribution of agreements in such fora to the liberalisation of trade in services should not be underestimated or ignored. The ICC welcomes the initiative taken in the meeting of the Ministerial Council of the OECD of June 1981, where

"Ministers expressed the wish that the ongoing OECD activities in the field of services be carried forward expeditiously. They agreed that, in the light of the results of these activities, efforts should be undertaken to examine ways and means for reducing or eliminating identified problems and to improve international cooperation in this area".

In addition, in the absence of overall multilateral agreements, a large measure of liberalisation could also be achieved in the shorter term through a series of industry-specific negotiations. Certain governments are already committed to a liberalisation of trade in services, and the ICC encourages them to enter and expand negotiations with other governments. In addition, certain industries are already regulated by intergovernmental or inter-industry agreement, and initial liberalisation measures might be negotiated using the existing regulatory institutions.

(10) The ICC fully recognises that an overall multilateral agreement will require a lengthy period of comprehensive preparation. Therefore, it recommends two specific issues which might be tackled immediately to produce solutions in the near future as a first stage in the progressive liberalisation of services trade. These recommendations do not imply, however, that other obstacles to services trade are not of equal importance to certain industries, and the ICC hopes that, wherever possible, advances in the liberalisation process might also be made in these other areas at the same time.

Government procurement.—An Agreement on Government Procurement was negotiated during the Tokyo Round of Multilateral Trade Negotiations under the auspices of the GATT. The Agreement, which entered into force on January 1, 1981, contains detailed rules on the way in which tenders for government purchasing contracts should be invited and awarded. It is designed to make laws, regulations, procedures and practices regarding government procurement more transparent, and to ensure that they do not protect domestic products or suppliers, or discriminate among foreign products or suppliers.

At present the Agreement applies primarily to trade in goods, as services are only included to the extent that they are incidental to the supply of products and cost less than the products themselves. However, the Agreement specifically mentions the possibility of extending its coverage to services contracts at an early date.

The ICC therefore urges all governments to respect and apply fully the existing Agreement, and calls upon contracting parties concerned to prepare negotiations, taking into account the experience of the present Agreement, with a view to including services procurement in the Agreement, and to make the list of government entities which would be covered by the Agreement as wide as possible.

Legal establishment and access to markets.—The rights of legal establishment and of access to foreign markets concern firms trading in goods and services alike, but are of particular importance to many service industries, owing to the nature of their business. As a first step in liberalising services trade, therefore, it is important that governments extend national treatment for establishment and market access to all firms wishing to establish an operation within their national boundaries. This would best be achieved by means of an agreement including provisions that:

(1) Where the applicant firm meets the local legal requirements for the establishment of a company in the host country (reasonable allowance being made for the different legal forms under which enterprises may exist), such establishment should be freely granted.

(2) The legal requirements for establishment apply equally to domestic and foreign applicants.

(3) Information on such legal requirements be freely available.

(4) The application procedures be implemented in a nonprejudicial manner.

(5) Access to the domestic market for any firm should not be impeded by the imposition of discriminatory restrictions on the size of the firm or the level of sales.

The ICC therefore urges all governments to take up this issue and enter into negotiations to develop an international agreement based upon the principles outlined above, to permit the unimpeded establishment and participation of international service industries wishing to operate internationally.

ANNEX—A GLOBAL FRAMEWORK OF IMPEDIMENTS TO TRADE IN SERVICES

The following classification of barriers to services trade is based on the premise that, notwithstanding the differences in activity among the different service industries covered, the underlying principles of liberal trade and fair competition are common to all. It attempts to draw together data on obstacles to trade in services experienced in specific industries and to classify it in terms of these underlying economic principles. This classification then offers a manageable framework of nontariff barriers to trade which can be used as a model for a negotiated liberalisation to international trade in services.

RIGHTS OF ESTABLISHMENT AND ACCESS TO MARKETS

Establishment in third countries is, in general, more important for many service industries who wish to conduct international transactions than it is for manufacturing industries, as in many cases the provision of the service relies on the existence of a local office or outlet.

However, an additional factor in the successful establishment of a local office is the ability of a firm to gain realistic access to the market in which it wishes to operate. For transport services, for instance, the ability of a vessel to put down and pick up passengers or freight in a particular area is of greater importance when considering market access than is the establishment of a local agency. Any discussion of establishment questions, therefore, should cover equally both establishment legislation—"the bricks and mortar"—and freedom of access to markets. Restrictions on establishment and market access for service industries appear to be some of the most important deterrents to international trade in services for all industries.

Impediments in this category arise from the complete or partial denial of access to a market as a result of:

(1) Prohibition upon the establishment of local operations or upon the importation of a service by a foreign firm.

(2) The operation of a system of licenses, required by foreign firms before establishment or import of the services is permitted, which act as a quota upon the number or type of foreign firms granted access.

(3) Legislation which obliges foreign firms to operate under significantly different conditions to domestic firms, thus increasing the cost or decreasing the attractiveness of the service offered in a discriminatory manner.

Examples under section 1 above

(a) Legal prohibition of the establishment of firms.

(b) The prohibition upon foreign investment in an existing domestic industry.

(c) Cabotage, i.e., the reservation of a country's domestic operations to its national flag carriers.

(d) Limitations on the freedom to pick up or put down passengers/freight in the country concerned, or to proceed through national territory.

(e) The prohibition or limitation upon the activities of brokers of services to conduct their business on international markets.

Examples under section 2 above

(a) Procedural impediments in the granting of the license.

(b) The requirement that the foreign firm be able to offer a service materially different from those offered by domestic firms before the license is granted.

(c) Licenses may only cover limited activities, and those activities not included in the license may not be practiced.

(d) Non-recognition of professional licenses to practice awarded in other countries.

Examples under section 3 above

(a) The imposition of cargo-sharing or cargo-allocating agreements, either in national legislation or through the forced use of certain contract clauses.

(b) Limitations in foreign equity holdings or on the amount of capital required for initial investment.

(c) Discriminatory restrictions upon the level of sales of a foreign firm.

(d) Discriminatory restrictions upon the level of advertising of a foreign firm.

GOVERNMENT ECONOMIC POLICY AND REGULATION

Although legislation is necessary to regulate certain aspects of commerce, and to further government macro-economic policies, such legislation often results in practice in barriers to international trade, as its application to domestic and to foreign firms is, in many cases, inconsistent. The legislative measures included in this category are diverse, but when brought together, they represent one of the most common and most effective impediments to international trade in services, in both the industrialized and the developing nations.

Impediments in this category arise where local government economic policy measures discriminate between the operations of domestic and foreign firms, thus providing significantly different operating conditions for the two competing groups.

(1) National treatment is not extended to foreign firms.

(2) Government legislation effectively impedes the export of the service.

(3) The application in practice of legislation in the host country is undertaken in an effectively discriminatory manner.

Examples under 1 above

(a) Foreign firms often face different tax regimes to those faced by domestic firms:

(1) Corporation tax is levied at a higher level on foreign firms than on domestic ones.

(2) The purchase tax on the service can be set off against the buyer's own corporation tax when domestic services are purchased, but this practice is not extended to the services of foreign firms.

(3) In countries which have no bilateral agreements, or which do not recognize the OECD Convention on Income and Capital, the problem of double taxation arises.

(b) Credit facilities extended by governments are often unavailable to foreign suppliers, and private credit sources are often limited in their provision.

(c) Exchange control regulations which hamper the repatriation of profits or the movement of remittances, and influence the location of the service transaction.

(d) Discriminatory regulations between foreign and domestic firms with regard to contracts, documents required, etc.

Examples under 2 above

(a) Taxation practices applying to citizens working abroad act as a disincentive to trade and personnel movement.

(b) The extraterritorial application of domestic laws brings the service industry into conflict with the laws of foreign governments when conducting international operations.

Examples under 3 above

(a) The lack of easily obtainable information on local government regulations and policy measures.

(b) Problems in gaining access to officials, courts, etc., to file disputes or resolve problems, or the existence of biased procedures once access has been obtained.

(c) The use of technical regulations, standards, certification systems on safety, health and manning levels, etc. to discriminate against foreign firms.

DIRECT GOVERNMENT INTERVENTION

In addition to their legislatory role in providing a stable legal framework for commerce and in furthering macro-economic policy, governments in many cases directly intervene in the functioning of the market mechanisms to influence market-based decisions, and to further regional, social and industrial policies.

Impediments in this category arise where the competitive position of firms operating in a market is distorted by direct government micro-economic intervention.

Such intervention may be by the government itself, by government agencies, or government-controlled corporations.

Such impediments can be split into two categories:

(1) government intervention which attempts to favour or improve the competitive position of certain individual firms.

(2) intervention which specifically hampers the competitive conditions of foreign firms.

Examples under 1 above

(a) Government grant and loan facilities offered to industry to further regional and social policies which are not available to foreign firms.

(b) Requirements that ancillary activities be provided by local firms and sales organizations.

(c) The selling below cost of competitive services by local government-owned firms.

Examples under 2 above

(a) Restrictions on contractual freedom and the setting of prices and charges.

(b) Restrictions or delays in the importation of or access to equipment and utilities necessary for the operation of the service activity.

(c) Requirement that factors of production (land and equipment) be leased rather than pursued by foreign firms.

(d) Restrictions on the employment of expatriate staff required for the operation of a local office.

GOVERNMENT PROCUREMENT

A further source of government-imposed barriers to trade in services arises in the field of government procurement, in which the government participates directly in the market as a purchaser of services or in the tendering of government contracts.

Impediments in this category arise where governments discriminate between domestic and foreign firms when undertaking their own activity.

(1) Government procurement procedures limit government purchases or the tendering of government contacts to local firms.

(2) There is an absence of explicit procedures and regulations concerning government procurement, or existing regulations concerning procurement are not applied, allowing discretion and discrimination in procurement issues.

Examples under 1 above

(a) Specific regulations limit purchases by government departments, local governments and state-owned corporations to certain designated firms.

(b) Government tenders are only offered to specific firms.

(c) Contract clauses effectively control the allocation of the services (the use of FOB purchase and CIF sale clauses to regulate shipping).

Examples under 2 above

(a) The lack of specific regulations allows an element of preference to be introduced in awarding government contracts.

(b) Tenders are not openly announced which restricts the ability of all firms to compete.

(c) The results of tendering are not published to verify the final award of the contract.

[The following information was subsequently received for the record:]

American Re-Insurance Company,
New York, N.Y., November 3, 1981.

Hon. Larry Pressler,
Chairman, U.S. Senate Subcommittee on Business, Trade, and Tourism, 233-B Russell Senate Office Building, Washington, D.C.

Dear Sir: Thank you for your letter of October 26, 1981. My answers to Senator Howard Cannon's questions are as follows:

Question 1. Can you identify some of the nationalistic policies which benefit your foreign competitors?

Answer. The Commission on Insurance Problems, through its Working Party on Protectionism of the International Chamber of Commerce, has published the attached report which summarizes obstacles to insurance. These policies of protectionism benefit our foreign competitors while freezing us out of foreign markets.

Question 2. Do you think it is possible to negotiate an extension of the GATT to services—considering the complexity of the task?

Answer. We believe it is possible to negotiate an extension of the GATT to services. Please see Sections 7, 8 and 9 of the International Chamber of Commerce's statement filed with the Committee. A copy is enclosed for your ready reference.

Question. 3. How do you explain the drop in the U.S. share of service trade from 25% to 20%?

Answer. The unequal terms under which U.S. service industries, particularly insurers, must do business overseas has resulted in the drop of our share of the world service trade.

Question 4. What sort of measures would you recommend that the U.S. take to guard our domestic interests?

Answer. We believe the adoption of S. 1233, the Service Industries Development Act, would go far to enhance the position of the U.S. service industries. The Act will place in our agency, the Commerce Department, the responsibility for the furtherance of service industry trade. With one agency responsible, we can work to overcome the barriers in other countries while, at the same time, maintaining our philosophy at home of open competition without retaliation.

Best wishes for the success of your efforts for the adoption of S. 1233.

Very truly yours,

T. DARRINGTON SEMPLE, Jr.
Resident Counsel and Secretary.

Senator PRESSLER. Thank you. I would address this question to anyone, but in particular to Mr. Morone. Is that right?

Mr. MORONE. Yes, sir.

Senator PRESSLER. In your description of the obstacles faced by insurers as they enter foreign markets, you mentioned that admission to a market is not synonymous with effective access. Does this mean that American insurers enter these new markets without knowing the price they are paying for access or is it that the host country changes the rules once operations have begun?

Mr. MORONE. The problem is that they very often change the rules after the companies are entered into the market. This takes many different forms. Venezuela, for example, the foreign branches operated in Venezuela for many years and they passed a law requiring that all of the foreign branches had to localize and limited our ownership to 10 percent.

This means that for us to operate, and we have to operate there to service our multinational clients—we had to bring local shareholders in—that type of restriction.

Senator PRESSLER. In your testimony, you listed a number of actions which the U.S. Government could take which would assist American insurers in setting up successful foreign operations. Among these actions were compiling foreign licensing laws and other Government practices which restrain trade.

Is such a list of barriers not already available within the U.S. Federal trade establishment?

Mr. MORONE. Yes. Actually, our organization, one of our organizations, the International Insurance Advisory Council, which is a grouping of all American insurance and reinsurance companies operating overseas, has already developed such a list. But, of course, the problem, we're relating this to multilateral negotiations and very often, in multilateral negotiations or even sometimes in bilateral negotiations, when the question of national treatment and reciprocity is discussed, some formal listing is required from a Government agency.

For example, I'll give a specific example and this was mentioned by my colleague. In Europe, in the Common Market, they have what they call a freedom of services, which is extended in the insurance industry to freedom of coinsurance, which means that on a given policy, a Common Market company can cross country lines. The policy issued by a German insurer, for example, could be coinsured or accepted in part by a French or a British company.

This is not available to us. Our foreign branches in Europe cannot do this. When we discussed this with individual country authorities, they immediately brought up this question of reciprocity, which of course is very difficult for us because we have different regulations in each State.

This is the point we're making here. If we had some mechanism, possibly through the National Association of Insurance Commissioners, whereby they could work with the Special Trade Representative and the Department of Commerce, both in bilateral and multilateral negotiations, we believe that quite a bit could be achieved.

Senator **Pressler**. Well, I'll address this question to you or Mr. Olsen. Since the insurance industry in this country is primarily regulated by the States, can you tell me if there are any States which have regulations governing entry of foreign insurers which are centered around the idea of reciprocity? Or to place it in a broader context, are you suggesting more Federal regulation in terms of uniform standards here?

Mr. **Morone**. No, no.

Mr. **Semple**. No.

Mr. **Olsen**. Absolutely not.

Reciprocity, in our business, is a little bit different than reciprocity in the banking industry and I think that we need to for a minute make that distinction. Reciprocity, as it is thought of in the insurance industry as it refers to company-to-company relationships, is reciprocity either in terms of premium dollar, which is becoming less and less in favor, as opposed to reciprocity in terms of profit.

This, of course, is completely different than the type of reciprocity in terms of legal restrictions that the banking industry and so many other industries are concerned about, but for us it is a barrier in some countries. We've not had a great deal of problems in terms of not being able to enter a country because they cannot get into a specific State.

Any foreign company who is willing to abide by the regulations in effect in any State can get into that State. Mostly, it takes a deposit fund and an indication that it is a carrier of some note. So there is no problem for most foreigners getting into the United States. And some States allow what they call an alien approved list, which says that this is a company which is not licensed in this State, but on surplus lines and in difficult situations, this carrier can operate.

Senator **Pressler**. Mr. Olsen, you said in your statement, "To do this, it must be recognized that the United States already offers one of the least restrictive insurance marketplaces in the world." What did you mean?

Mr. **Olsen**. Well, because we are less restrictive, we need to have the ability to operate anywhere and not have restrictions placed on us. And the restrictions, as Mr. Morone said, are sometimes subtle. Getting your money out is one of them.

In one country that I'm thinking of, which will go nameless and blameless, any premium dollar that we get in that is not used up by claims, we have a 6-week period in which to claim those funds and it includes getting permission, getting signed and notarized documents back and forth to this country which is several thousand miles away and you have a period.

At one point, for example, the bank did not get a copy of a document. Even though the insurance company involved got a copy of the document, the central banking authority got a copy of the document, because the bank did not get it, we did not get our money in that transaction. Since then we've been using it up as expense money in that country.

Senator **Pressler**. Mr. Semple?

Mr. **Semple**. Yes, sir.

Senator **Pressler**. One of the basic facts of international trade—this question is a little presumptuous because from my days studying economics, we had a debate about "facts of international trade"—but anyway, one of the basic facts of international trade has always been that countries with a competitive advantage favor free trade more than countries with less developed economies, where protectionism appears to be both reasonable and necessary.

Assuming that we have a large competitive advantage in the insurance area—I don't know if that's a safe assumption—perhaps our point of view is considerably different from those countries that have, let's say, an emerging or developing insurance industry. How would you get around that if you were at the negotiating table?

Mr. **Semple**. Well, you have to explain to the developing country that its economy will not sustain the risks that it requires insurance for. In other words, in a developing country, their economy will not produce the premium volume to pay for a large loss. They do this and protect themselves by international insurance until their economy develops.

No economy can develop or manufacturing enterprise go forward, really, without insurance. In the developing country, we try to explain that if we in the international insurance area can come forward and provide you with the insurance to get your economy going, then your own economy can grow to provide its own insurance market. But we in the insurance market should not be restricted from doing this and it's really a point of helping the developing country.

Mr. **Olsen**. Mr. Chairman, one example might be, for example, if there is a serious catastrophe in a small country, a small developing country. The claim dollar, which is then sent back to that country to pay for the claims, as it does in the United States, would help the economy because the people would have some money with which to rebuild. If it's a farmer, he would get some money. He could replant the crops. The crops would then grow and you would have an instant assistance in redeveloping a destroyed economy.

Mr. **Morone**. I should mention, Mr. Chairman, that in a country recently, we pointed out—actually, it was a smaller underdeveloped Caribbean country—we pointed out that a localization law that they were about to pass requiring that only local companies operate, would seriously affect their balance of payments situation because they had very limited market capacity and they would have to reinsure heavily abroad, which would have imposed quite a burden on their foreign exchange situation.

And with the help of our State and Commerce Departments, actually, we've convinced them to postpone localization laws.

Senator PRESSLER. Last year, at the request of this committee, the GAO commenced a study of the international insurance industry. One of the preliminary findings is that according to industry observers, the principal U.S. objective should be preventing any additional trade barriers and second, to seek a rollback.

According to your own experience, would you say that this accurately reflects opinions amongst your colleagues?

Mr. SEMPLE. Yes.

Mr. MORONE. Yes, I'd say so.

Mr. OLSEN. Yes.

Senator PRESSLER. The GAO report also suggests that we may have little to concede in insurance negotiations since our market is already open. This may leave us in a weak bargaining position. However, if we look at the service sector as a whole, would it not be possible to grant concessions in other service industries in exchange for reductions in barriers to U.S. insurance firms abroad.

Mr. SEMPLE. It's an area I'm not familiar with, but it's possible to negotiate anything. I take it they're reducing barriers in one service industry to get barriers in the insurance industry reduced in others. That's why we need a central focus point and support this bill.

Mr. MORONE. Our Government negotiators have to have full information. For example, we had one situation involving bilateral negotiations where the other country had full national treatment. They had a treaty of friendship, commerce, and navigation with the United States and that afforded full national treatment here, but they refused to license us. And it was only after considerable difficulty that we obtained licenses. But it was done through the negotiating table.

Mr. OLSEN. I think in the marine sections, in the marine cargo market, we've had some success with the help of the U.S. Government in solving barriers created in shipping goods which are being imported and exported. And there have been examples where the Government's assistance in bringing barriers down has been helpful.

Senator PRESSLER. The GAO study also points out that the U.S. market is the largest and most open and competitive. U.S. insurers or reinsurers, however, do not receive reciprocal treatment abroad. What means can be applied by the U.S. Government, State government, and industry in obtaining greater overseas market access?

Well, we've covered that.

See, everybody likes quotes from the GAO. The other day in the Foreign Relations Committee, the GAO did a study of Saudi Arabia's need for the AWACS. I said, who in the GAO knows about this? The GAO, I guess, knows about everything.

The GAO study notes that the unique regulatory pattern of insurance makes it difficult for U.S. insurers to obtain reciprocity since regulation is conducted at the State level. Would it nevertheless be helpful to the Congress to express its views that State regulators take reciprocity into consideration when admitting foreign insurers?

Well, that question, it really wouldn't do any good just to express our views. There we're getting into that touchy area of Federal regulation again, and that's the problem we get into.

Mr. **Morone**. Yes.

Mr. **Semple**. May I respond?

Senator **Pressler**. Yes, go ahead, everybody.

Mr. **Semple**. The point here, I think, is an open dialog. We've already tried to start it with the Commerce Department and the National Association of Insurance Commissioners. But we're trying to get a trading of information.

What really worries us is insurers and part of the insurance industry is that a State will retaliate against a foreign insurer in this country and then that foreign country retaliates against us.

What we're trying to do is get an open insurance market. We don't think that Federal regulation is at all what we advocate. What we do advocate is a dialog between the National Association of Insurance Commissioners and the Department of Commerce so that we all understand what the situation is and can develop programs to go forward with.

We've started that and we feel that this bill will greatly enhance our efforts in that direction.

Mr. **Olsen**. Mr. Chairman, the U.S. Trade Representative does have a specific list which he prepared in cooperation with the International Insurance Advisory Council of discriminatory practices by overseas countries and that list is readily available.

So it is pretty well documented at this point what some of the things are, what the majority of the practices are. Getting tit for tat from the States won't be helpful at all. That gets us into sausage slicing and all that you need get into with those things, it would not be of any use to any of us.

Senator **Pressler**. Thank you very much. I appreciate your testimony. And I shall now call upon the telecommunications panel: Mr. James Parker, general counsel of CBS, Washington, D.C.; Hugh Donaghue, vice president, Control Data Corp.

Mr. Parker, do you want to go first?

STATEMENTS OF JAMES PARKER, GENERAL COUNSEL, CBS, INC., AND HUGH DONAGHUE, VICE PRESIDENT, CONTROL DATA CORP.

Mr. **Parker**. Thank you, Mr. Chairman. I appreciate the opportunity to appear here. I did submit a written statement and I'd appreciate your entering that statement into the record. If so, I will speak briefly from notes.

We at CBS fully support S. 1233, the Service Industries Development Act. We agree with the remarks made by Chairman Pressler and Senator Inouye upon the introduction of the bill.

Within the services sector, CBS is involved in a number of activities—radio, television, manufacture and distribution of phonograph records, music publishing, book and magazine publishing. On the foreign front, we're involved very heavily in the manufacture and distribution of phonograph records. We are, of course, involved in the gathering of news and the coverage of foreign sports events. We are also involved in the educational and book publishing fields.

We believe that international trade in these fields, and communications in general, provides the ordinary economic benefits of other service area sectors—this is an important role. But they also have another dimension. In part, these communications activities are, more or less, a reflection of our culture and of other cultures. It's a news and human activity kind of business that builds, over time, an understanding in foreign countries of the United States and in the United States of foreign countries.

We think this building of understanding through a cultural exchange is an important factor in the development of international peace and a reduction of international tensions. We think that the educational aspect, which is also part of our news as well as our publishing activities, has a very important dimension in that an informed populace is very critical to a stable government, an informed government and a representative government. We think an educated populace and work force is a very important part of developing the standard of living in each country.

We believe that the kinds of activities in which CBS is involved, particularly as the communications technologies unfold, will enable more efficient delivery of education, if you will, in a way that's relevant to people, not just in a formal sense, but in an informal sense throughout their lives. The opportunity is there, I think, to make very appreciable strides in the development of other countries, as well as our own.

We think that these communications activities also have an impact upon the demand for U.S. goods. If people are able to see U.S. scenes and U.S. goods being utilized, they can develop an understanding of what the U.S. goods are and, therefore, they can want them. It's fundamental to developing a desire for these U.S. goods.

Now the technologies in the areas that we're involved in are in the process of change. New things—cable, videodisc, videotape machines, direct broadcast satellites, teletext, viewdata, one-way and the two-way kind of communication—all are developing areas. These offer many more channels of communication. This will eventually cause more need for audiovisual product and for other products. And it can be product that is very much more focused on the interest of a narrow group of people.

This ability to engage in so-called narrow casting is something that will work best if it's done on an international basis, where people of common taste can, in effect, share the cost of programing that is directed toward their views and their tastes.

We do believe that in our areas there are, besides the impediments that exist for other services businesses, some special problems that can affect our business. First of all, the concept of national treatment is not a very good concept in the news gathering field. There are many countries where the local news agencies and the local newspapers are not given very good access for the collection of news about the operation of the government. For the newsgathering business, CBS needs all the help it can get to keep the flow of information as open as possible.

We shudder when we think of the transborder data flow kind of an issue applied to news gathering. Transborder data flow restrictions may involve organized impediments which can have a significant impact on news distribution.

We also can have special kinds of problems in our other businesses—TV, radio, and the like--because, often, these require access to facilities that are either directly owned or very tightly controlled by a government, like the communications facilities are in so many countries.

Developing businesses like videotext, which is two-way communication via cable or via telephone lines, has to be done in cooperation, very close cooperation, with other countries.

It is quite easy for a discriminatory set of policies to be implemented without the discrimination immediately showing on the face of it.

A very important factor in the kinds of businesses that we're in is the need to protect intellectual property. Piracy is a major problem in many areas. Piracy involves the concept of people taking a book or record and making and selling thousands of copies without paying the author or the artist or the editorial staff that put the product together. That is really an impediment to the development of a sensible international trade.

This is a problem, I think, that most countries can appreciate in the abstract, but there needs to be a development of an awareness of why it is in these countries' interest, as well as this country's, to have protection for intellectual property to allow and stimulate its production and to allow its sensible exploitation.

There is ample motivation, we feel, for foreign governments to impede the development of international commerce in the areas in which we're interested. We think the reasons that they might do this are shortsighted, but real. One reason is to favor local competition. A second reason is that they're worried about the impact of the free flow of ideas and the free flow of culture.

Again, we think that the important, or at least one important, aspect of this is to promote the international understanding of the resulting benefits. We applaud the bill. We think the concept of opening lines of communication is a very important concept. We think the effect of this bill will be to help to build a partnership, if you will, between the service sectors of the U.S. economy and the U.S. Government to try to carry out some of these missions.

In conclusion, I'd like to say that CBS supports this bill. We believe it's in the U.S. public's interest, and I thank you for your time.

[The statement follows:]

STATEMENT OF JAMES K. PARKER, SENIOR VICE PRESIDENT, CBS INC.

I appreciate the opportunity to appear here today to discuss the urgent problem of how to maintain and develop the competitiveness of U.S. service industries in the international arena. The urgency of the problem was described succinctly by Chairman Pressler and Senator Inouye in their remarks upon introduction of the bill you are considering today—the Service Industries Development Act.

In a nutshell, the services sector provides two-thirds of our Gross National Product; it is essential to any prospect for the U.S. to maintain a healthy trade balance;

and yet it is subject to potentially serious disadvantages in world markets because of measures employed by foreign countries.

Within the services sector, the U.S. has outstanding communications, entertainment and publishing industries. Advancing trade in intellectual properties—the common denominator of these industries—has all the economic benefits of advancing trade in tangible goods, as well as in other kinds of services.

Significantly, however, trade in communications, including news, entertainment and publishing, also increases understanding among nations. Video, audio and print news and entertainment are part of, and reflect, current culture to a much greater degree than do art forms historically labeled as "cultural."

Cultural exchanges have long been recognized as steps toward increased understanding. As communications technologies advance (and I will highlight some of the current developments in my statement), opportunities exist for cultural exchanges on an unprecedented scale. The importance of broad scale cultural exchanges—and by that, I mean the entire range of news, information, education and entertainment, by both electronic and print media—can scarcely be overstated. Political instability and non-representative governments are founded on an uninformed populace; international antagonism flourishes on misunderstanding and prejudices; low real income levels are associated with an uneducated or undereducated workforce. An unrestricted flow of intellectual property will materially assist all countries, including the U.S.A., to achieve a brighter, more stable and more productive future.

I do not mean to suggest that broad-scale cultural exchanges should flow in only one direction. In fact, the U.S. will itself profit enormously by an increased understanding of other nations and peoples. And that includes an enhancement of our foreign language capabilities.

An enhanced flow of ideas also will increase the demand for goods and services that awareness and understanding generate. One can scarcely appreciate a product like a videodisc player until one understands what that product is.

CBS is a leader in the entertainment and information industries, and is thus not a stranger to the international arena. The CBS News Division operates 16 overseas news bureaus and routinely uses international satellite facilities to bring news reports back to this country. CBS News product is currently distributed in 78 countries and CBS Sports product in 45 countries. CBS has an established phonograph record manufacturing and distributing system abroad which includes 27 subsidiary organizations, three joint ventures and 21 licensees, and is a major international educational and professional book publisher. Finally, the CBS Broadcast Group has recently announced an international unit which is intended to coordinate and extend the worldwide marketing effort for all CBS-produced video software, including entertainment as well as sports, news and special events.

We cannot overemphasize the importance of maintaining the competitiveness of U.S. entertainment and information industries in current world markets. It is crucial to freedom. It is important to this country's economic health. For those reasons, the U.S. Government should focus its efforts on identifying and combatting barriers that may adversely affect these U.S. entertainment and information industries. It is even more urgent that a relevant, coherent and effective trade policy be developed since something else is happening which will expand the opportunities for these services.

New communications technologies are rapidly changing the nature of these businesses and are creating new businesses. These new service businesses will spawn worldwide markets; some are already doing so.

While broadcast television will remain as a mainstay of mass video entertainment, cable television is proliferating and making possible an even wider variety of video programming. Videocassette recorders are selling rapidly; videodisc players are next. This proliferation of audio and visual systems will permit increased tailoring of programs to the tastes and needs of more limited audience segments. This narrowcasting can be facilitated by international viewing of specialized programs by all persons of similar tastes, thus minimizing the program costs per viewer. International viewing will, thus, help speed the development of new programs even though they serve only a portion of the viewing public. In the aggregate, the public will gain diversity in programming.

In addition, telephone-based and cable-based two-way videotex services are being developed which can provide a wide variety of "printed" information electronically and can allow transactions of many kinds to be conducted at home by the consumer. (In fact, CBS and AT&T announced on October 8 that they plan to jointly test a videotex home information system in the fall of 1982.)

This country is a leader in the development of these new technologies and in the adoption of these technologies to fulfill the need for entertainment, education and information, both here and abroad. CBS is and will be a competitor in many of the international markets for these services as they develop, especially as a provider and packager of entertainment, information and educational materials.

The perspective that CBS would like to bring to these hearings is that not only are presently identifiable international markets for U.S. service industries affected by trade barriers, but new technology-based communications businesses are likely to be special targets for restrictive foreign regulation. First, there will be economic incentives to restrict imports. Second, as noted above, extensive cultural imports will impact foreign countries, citizens. Some countries will seek to avoid this impact by directly or indirectly restricting the importation of culture by means of avowedly protectionist measures or by using non-tariff barriers in light of national interest—social, cultural, economic, or national security—that they perceive might be affected by cultural imports. CBS' concern is that the incentives for foreign governments to limit U.S. involvement in service industries will be very strong, considering the new communications services which may be viewed either as threatening to national values or as susceptible to protectionist measures for domestic economic betterment. Areas where foreign countries could hurt U.S. service companies are legion. For instance, "electronic publishing" could be stymied without access to communications facilities which often are government owned; satellite broadcasting will require international cooperation and local government clearances; and distribution of video programming for foreign broadcast will be subject to potential barriers, such as the screen-time quotas that motion picture distribution faces. But even more important will be the need for all governments to protect the property rights of the creators and owners of intellectual property. Allowing pirates to copy and sell books, records and tapes without paying royalties is vicious, unfair and a serious impediment to the development of intellectual properties and cultural exchanges.

In general, any time a new business is developed with a new technology, novel trade policy issues can arise, and ingenious trade barriers may be hard to predict and prevent. Indeed, one particularly vexing aspect of this situation is the blurring of the boundaries between traditional video, audio and print businesses and new businesses based on new technology, to the extent that even the standard definitions of "goods" and "services" become blurred. That is, phenomena such as videotex will give book and magazine publishing some of the attributes of a service industry and the advent of videodiscs and cassettes are turning television programming and motion pictures into tangible products which consumers can purchase and use at their convenience. The point is that traditional definitions, and traditional trade policies, are not sufficient to deal with these new infant industries.

Because of the importance of these problems to the industries in which CBS now participates, and plans to participate in the future, CBS's President, Thomas Wyman, is a member of the Services Policy Advisory Committee of the Office of the U.S. Trade Representative. That Committee has become a useful forum to provide the USTR with policy input from the private sector and to provide guidance and support for USTR negotiations.

For the same reason that CBS supports the work of the USTR, CBS supports the purpose of S. 1233—that is, to provide a framework for the Commerce Department to give the same attention to services that it has traditionally, and successfully, given to the goods-producing sectors of the economy. Such attention is necessary to meet the urgent need for intense research, analysis, and intra-agency cooperation looking toward a coherent services trade policy in a rapidly changing technological environment. Only with such a policy can the United States anticipate and deal intelligently with the trade problems which will increasingly be associated with the worldwide development of the entertainment and information industries which will continue to be critical to the U.S. economy and to the very important development of an understanding in depth by all peoples of the culture of other nations.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

CBS INC.,
New York, N.Y., November 6, 1981.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRESSLER: I appreciated the opportunity to participate in your hearings on S. 1233, the Service Industries Development Act, and I am pleased to respond for CBS to your October 26 letter.

Question 1. The barriers erected to trade in the information services area are legion. Can these be adequately identified and dealt with in multilateral negotiations involving the entire services area?

Answer. So long as a nation desires to erect barriers to international trade, the process of identifying those barriers will never end since the potential barriers are legion. This is especially so in the information services area where rapidly changing technology and business patterns continually create the potential for new barriers to international trade. The information, education and entertainment services areas are especially susceptible to subtle trade barriers because of their dependence upon, or importance to, a local country. For example, information, education and entertainment businesses need (i) protection against piracy, (ii) security against theft, (iii) use of communications facilities, which are often government owned or controlled, and (iv) freedom to report, comment on, or lampoon subjects that are culturally or politically sensitive. In other words, the media can flourish only where a host country permits facts and ideas to be gathered and disseminated openly and with confidence, and protects the creators' and developers' rights in their intellectual property.

There is no question that barriers to international trade in the information, education and entertainment areas can be identified, although rapid changes mean that the job will never to be totally completed. But this should not deter us from continuing those efforts. First, identification and concentration on removal of barriers not only will be of direct assistance to the development of trade, it will discourage the erection of additional trade barriers. Second, this effort will inevitably serve as part of a process that educates government officers and private citizens of countries as to their self-interest in opening international trade in these areas. If an informed populous, including their officials, truly understands the advantages that free trade in the information, education and entertainment areas bring, the country will cease creating subtle barriers to that trade.

Because of the rapid changes in the area, it is important to establish basic principles that should be applicable as circumstances change. For these reasons, CBS supports the establishment of basic trade principles in broad-based multilateral negotiations covering both goods and services, with more detailed bilateral and multilateral negotiations that focus on information, education and entertainment business. The process will help eliminate specific barriers and can very materially help develop an understanding of the benefit to be achieved from free trade in these areas.

Question 2. In dealing with cultural imports, foreign countries may have other goals beyond economic protectionism in restricting trade in this sector. What suggestions do you have for combating this as the U.S. prepares for the GATT ministerial meeting in 1982?

Answer. Barriers to trade in information, education and entertainment products and services are often established not only for economic protectionism but also with the intent of protecting cultural values and promoting political stability. Using barriers to trade to attempt to reach these goals is misguided, and is adverse to international peace and stability.

First, it has long been a cornerstone of U.S. foreign and domestic policy that the public interest is best served by a free press and a free expression of ideas. The First Amendment to the U.S. Constitution expresses this concept. The international importance of freedom of speech has been often expressed and was one of the Four Freedoms designated by Pres. Franklin D. Roosevelt in 1941 as a goal for the entire world. Freedom of speech, along with freedom of religion and freedom from want and fear, was identified by him as the basic defense against tyranny. Freedom of speech should have equal importance today as a key part of U.S. foreign and domestic policy.

Second, the concept of free speech, and the corollary of a free press, underlies the development of an informed populace and long range political stability. The ability of citizenry to know and openly discuss important facts and ideas allows the development of in depth political understanding and support, the cathartic benefits of open discussion of ideas, and a gradual modification of government policies to meet changes in the public's political decisions. In short, free speech and a free press are fundamental to an informed populace and a stable government.

Third, international peace is dependent, ultimately, on an understanding of all cultures among all peoples. An open trade in information, education and entertainment is critical to the development of these cross-cultural understandings. Such an open trade in these idea areas must work in all directions. Therefore, a free trade in ideas will give every country a better idea of other people, and every country will be better understood by those other people.

Fourth, the importation of information, education and entertainment products and services will stimulate the development of corresponding local products and services. For example, exportation of U.S. musical performances through phono records has stimulated musical artists from other countries to develop exportable musical product. The Beatles, the Rolling Stones and Julio Iglesias are three examples of musical artists whose product is enjoyed throughout the world. But in a larger sense, ideas are built on earlier ideas. Copernicus, Galileo and Newton have influenced all further scientific thought. Similarly, Shakespeare, Goethe and Homer have affected subsequent literature. Intellectual growth is stimulated by a wide dissemination of ideas; new ideas are built upon, and stimulated by, old ideas. The growth of intellectual effort in each country is therefore promoted by a free exchange of ideas.

It is inevitable that local talent will build on ideas they see or have—be it in music, or in literature, or theatre, or televsision, or news, or education—but with the important addition of local cultural values and history. This development of a local information, education and entertainment industry should be perceived to be very much in each country's interest. And this development will be stimulated by the open international trade in ideas.

The attempt to eliminate trade barriers founded on factors beyond economic protectionism, therefore should be based on the development of understandings of the importance both internationally and locally of a free exchange of ideas. Local self-interest will coincide, in the minds of informed persons, with a free trade in the information, education and entertainment areas.

Question 3. Earlier this year as part of S. 821, the FCC authorization, the Senate passed but later dropped a provision similar to H.R. 1957, which would have established an inter-agency task force to help develop and implement information policy. What are the views of CBS on current U.S. government organization to develop properly information policy. Are there problems your industry has detected in interagency disagreements?

Answer. Although CBS has taken no position on specific mechanisms, we strongly agree that interagency cooperation on international communications matter is important, whether or not in the context of developing an overall "information policy."

Regarding an "information policy", I still have reservations about any information policy that goes beyond the policy of free speech, a free press and free and open communications. The First Amendment to the U.S. Constitution was a deliberate choice for freedom of speech, press and expression. No information policy should cut into the breadth or depth of such freedoms. U.S. policy, in our judgment, should fully support FirstAmendment concepts and should support the elimination of barriers to international trade in free speech areas—area of information, education and entertainment. One means of implementing those policies is through a commitment to the unrestrained interaction of competitive forces in a free marketplace.

Respectfully submitted.

JAMES K. PARKER.

Mr. DONAGHUE. Mr. Chairman, I'm Hugh Donaghue, Vice President of Control Data Corp. I am also chairman of the State Department's Advisory Committee on Transborder Data Flows and I participate in two private sector committees dealing with this issue of trade in services. One of these committees operates under the auspices of the United States Chamber of Commerce and the other is the United States Council of the International Chamber of Commerce.

I have submitted a more detailed statement for the record and I ask that that be accepted.

Senator PRESSLER. Without objection, it is so ordered.

Mr. DONAGHUE. I would first like to say that CDC supports S. 1233 and we will do whatever is necessary to help promote the bill through both the Senate and the House of Representatives.

Control Data is a supplier of data processing systems, equipment and services. We serve a worldwide market for all our products and services. Our data processing services include: general timesharing, remote access and data base management systems, as well as a number of specialized types of service.

These services use telecommunications as the transportation medium between Control Data's computer centers and input/output terminal equipment located throughout the world on our customers' premises.

As many of us know, the United States is second to none in the development and application of technology in the field of electronics, information processing, and telecommunications. Our country also leads the world in the uses of these technologies in science, business, finance, medicine, education, and many other fields which affect human well-being.

Information processing and telecommunications are important and growing areas of world trade and account for a positive balance of payments for the United States. They also have important ramifications for foreign policy, national defense, and economic growth. Continued U.S. leadership in the field of information processing and telecommunications is, therefore, of critical importance.

There is now a worldwide evolution going on taking us from an industrial society to an information society. The United States and other countries are becoming increasingly sensitive to the importance of this change. Increased worldwide interest in different issues which relate to international information flow is evidence of this evolution.

Now one of the most obvious aspects of this issue is the restrictive practices of many countries in order to protect their own indigenous operations. In this regard, for example, Control Data and a number of other companies in the data processing industry have encountered serious problems in Japan.

In 1976, after 2 years of delay by the Japanese, Control Data, through our Data Services Far East operations, which is a wholly owned subsidiary, entered into a contract with KDD, Japan's international record carrier. This contract provided for private leased line service to transmit data between Japan and the United States. The contract, which provides for the lease of the private line at a flat monthly rate, contained restrictions which limited Control Data's ability to offer data services in Japan.

Now we originally accepted those restrictions, but under protest, because there was no other way for us to obtain the circuit that we needed, the international circuit between Japan and the United States.

Curtailing Control Data's ability to compete in the Japanese data processing market by the imposition of such limitations gives a competitive advantage to Japan's domestic telephone company, Nippon Telephone & Telegraph. NTT, unlike U.S. carriers, is Government owned and can and does provide, without restrictions, both communications and data processing services. KDD-imposed restrictions on services offered by Control Data in Japan by exercising control over the United States-Japan international communications circuit—resulted in a significant and unfair advantage to NTT over its American competitors.

As I mentioned, that contract was executed in 1976. We tried repeatedly, and without too much success, to have those KDD-imposed restrictions lifted. We did this through discussions with KDD's New York office, the Ministry of Posts and Telegraphs in the Japanese Embassy here in Washington. We approached the

Joint Japan-United States Trade Facilitation Committee of the Department of Commerce. We went to the National Telecommunications and Information Administration of the Department of Commerce, the Office of the USTR, the Department of State, and even the international record carriers.

Finally, in December of 1980, through the aid and assistance of the Office of the USTR, the Japanese Government, and then KDD, agreed to review their position and consider the argument against their restrictions as posed by Control Data. This action finally resulted in the removal of those previous restrictions imposed upon us by KDD. In May of this year, 5 years after the original contract was signed, we were able to begin to offer our full range of services to our Japanese customers.

Now that's just one example of the kind of restrictions that are starting to be imposed on both data processing services and telecommunications services around the world. Other countries, for example, such as Mexico, do not allow U.S. data processing firms to have a controlling ownership in their subsidiary.

Similarly, Mexico has imposed restrictions upon data services activities over their telecommunications lines. Canada has similar restrictions and has often denied foreign license applications for business and data services within its borders. Germany has recently enacted a law which will become effective January 1 of 1982. This law provides that no entity, data processing service company or otherwise, can bring international leased lines into Germany unless the international leased lines terminates hardwired into a single terminal device or terminates in a computer system, and that substantial data processing is performed in Germany.

Now these are just a few of the numerous examples of restrictive practices by other countries in the data services and telecommunications area. In the past, U.S. companies have been at a severe disadvantage in dealing with these other governments and government-owned entities. These companies were also at a disadvantage in dealing with the U.S. Government because it lacked the proper organizational structure to deal with these issues.

I believe that S. 1233 goes a long way toward resolving some of these concerns in this service area. Thank you.

[The statement follows:]

STATEMENT OF HUGH P. DONAGHUE, VICE PRESIDENT, CONTROL DATA CORP.

Mr. Chairman, I am Hugh P. Donaghue, Vice President, Control Data Corporation. I am also Chairman of the State Department's Advisory Committee on Transborder Data Flows, and I participate in two private sector committees dealing with the issue of trade in services. One of these committees operates under the auspices of the Chamber of Commerce of the United States and the other under the United States Council of the International Chamber of Commerce.

I am here today on behalf of Control Data Corporation. Control Data is a worldwide corporation which employes more than 57,000 people in 47 countries. It uses its computers and financial and human resources to address the major needs of society by providing information products and services.

Control Data Corporation is a supplier of data processing systems, equipment, and services as well as financial and educational services. We serve a worldwide market for all our products and services. Our data processing services include general timesharing, remote access and data base management systems as well as a number of specialized financial, education, reservation, and inquiry services. These services use telecommunications as the transportation medium between Control Data's computer centers and input/output terminal equipment located throughout the world on our customers' premises.

All types of switched and private line of telecommunications services from low-speed circuits operating at 10 characters per second to high-speed service operating at over 5,000 characters per second run between Control Data's computer centers in the United States and Europe and to several hundred access points throughout the world. At these access points customers may connect their phone call or through leased local loops running from the customer's terminal to the nearest linking center.

Timesharing allows many users to share a single data processing system and share the cost of it, thus lowering the cost to each user. On a practical basis this can only be done through the use of specialized telecommunications services. Control Data's computer centers, when combined with communications, meld together to form a worldwide data processing network which allows a user almost anywhere in the free world to have unlimited computer power at their fingertips.

The United States is second to none in the development and application of technology in the fields of electronics, information processing and telecommunications. Our country also leads the world in the uses of these technologies in science, business, finance, medicine, education, and many other fields which affect human well-being.

Information processing and telecommunications are important and growing areas of world trade and account for a positive balance of payments for the United States. They have important ramifications for foreign policy, national defense, and economic growth. Continued U.S. leadership in the fields of information processing and telecommunications is, therefore, of critical importance.

There is now a worldwide evolution from an industrial society to an information society. The United States and other countries are becoming increasingly sensitive to the importance of this change. Increased worldwide interest in different issues which relate to international information flow is evidence of this evolution.

One of the most obvious aspects of this issue is the restrictive practices of many countries in order to protect their own indigenous operations. In this regard Control Data and a number of other companies in the data processing services industry have encountered serious problems in Japan.

In 1976, after two years of delay by the Japanese, Control Data, through Data Services Far East, Japan Branch (DSFEJ), a subsidiary of Control Data, entered into a contract with Kokusai Denshin Denwa Company, Limited (KDD), Japan's international record carrier. The contract provided for private leased line service to transmit data between Japan and the United States. The contract, which provides for lease of the private line at a flat monthly rate, contains restrictions which limit Control Data's ability to offer data services in Japan. Control Data accepted these restrictions, under protest, because there was no other way for it to obtain the needed international circuit between Japan and the United States.

The most significant restrictions contained in the contract were:

One, a limitation on the transfer of data between Control Data's data processing centers in the United States. This limitation was based on the view of the KDD that such data transfer constituted message-switching prohibited by Japanese law, although the data transfer would have occurred in the United States and totally within the Control Data Corporation. The data transfer did not constitute message-switching under either the recommendations of the Consultative Committee for International Telegraph and Telephone or under the rules of the Federal Communications Commission, and therefore did not contravene either the applicable international convention or applicable U.S. law.

Two, a requirement that when KDD started service through a new public, usage-sensitive data network called "VENUS", DSFEJ would replace its private line service with the new usage-sensitive service.

The data transfer restriction severely limited the number of services which Control Data could offer in Japan by limiting the number of computer bases in the United States upon which Control Data could draw to offer such services in Japan. Control Data spreads its data processing services among five operating centers in the United States, primarily for backup and security reasons. The KDD-imposed restriction meant that only one of these five centers could be connected with the international circuit to Japan. This restriction thus not only limited Control Data's ability to market in Japan its full line of services, but also restricted the ability of Control Data to provide the full range of backup and security functions for the services offered to its Japanese clients.

The second KDD-imposed restriction raised the concern that, despite certain assurances by KDD and the U.S. international record carriers to the contrary, the existing private line services then available to Control Data might be terminated or subject to even further curtailment.

Curtailing Control Data's ability to compete in Japanese data processing markets by imposition of such limitations gives a competitive advantage to the Japanese domestic telephone company, Nippon Telephone & Telegraph (NTT). NTT, unlike U.S. carriers, is government owned, and can and does provide, without such restrictions, both communications and data processing services. KDD-imposed restrictions on services offered by Control Data in Japan—accomplished by KDD's exercising control over United States-Japan international communications circuits—result in a significant and unfair advantage to NTT over its American competitors.

Since the KDD-DSFEJ contract was executed in 1976, Control Data repeatedly tried, without too much success, to have the KDD-imposed restrictions on private line service removed. Control Data tried to have these restrictions lifted through discussions with KDD's New York office, the Ministry of Posts and Telegraphs in Washington, D.C., the Joint Japan-United States Trade Facilitation Committee of the Department of Commerce, the National Telecommunications and Information Administration of the Department of Commerce, the office of the United States Trade Representative (USTR), the Department of State, and the U.S. international record carriers.

Finally in December, 1980, through the aid and assistance of the office of the USTR, the Japanese government and KDD agreed to review their position and consider the argument against their restrictions posed by Control Data. This action resulted in the removal of the previous restrictions imposed upon us by KDD. In May of this year Control Data began to offer its full range of services to our Japanese customers.

But Control Data is not the only company that has had restrictions imposed upon it, nor is Japan the only country to seek limitations on U.S. data processing firms. An American data processing service company, ADP, requested authority from a major European government to form a subsidiary in that country. ADP was told by the foreign government that it could not do so. That European country indicated it would not be in its national interest to allow the entrance of ADP into local markets in competition with its domestic companies.

Other countries, such as Mexico, do not allow U.S. data processing firms to have a controlling ownership in their subsidiaries. Canada has similar restrictions, and has often denied foreign license applications for business within its borders.

Germany has enacted a law, which will become effective January 1, 1982, which provides that no entity—data processing service company or otherwise—can bring international leased lines into Germany, unless the international leased line terminates hardwired into a single terminal device, or terminates in a computer system and substantial data processing is performed—in Germany—on the information transmitted over the international circuit, before its distribution in Germany. This law severely restricts information flows into and information processing in regard to Germany. Laws of this type must be viewed as, at a minimum, forms of non-tariff trade barriers.

Another example of restrictive practices involves a recently passed Canadian banking act. There is a provision in this act which effectively prohibits the processing of banking transactions outside the country. In the past because of economic reasons many Canadian banks processed their transactions in either their U.S. subsidiaries or independent U.S. data processing firms. This new law poses one further restriction on the ability of U.S. data processing firms to offer services in Canada.

These are just a few of the numerous examples of restrictive practices by other countries in the data services area. In the past U.S. companies have been at a severe disadvantage in dealing with other governments. These companies were also at a disadvantage in dealing with the U.S. government because it lacked the proper organizational structure to deal with these issues. Senate bill 1233 appears to go a long way towards resolving the concerns of the U.S data services sector.

Senator **Pressler**. Thank you for that testimony on this complicated and little understood area. Mr. Parker, in trying to eliminate trade barriers, is there any way for Government agencies to make a distinction between a nation's legitimate cultural objections to telecommunications product as opposed to purely protectionistic barriers?

Mr. **Parker**. Well, that certainly is going to be an issue, I think, that would wise regularly. I don't think it's possible to set down even in an essay the parameters on that. I believe an enlargement of the cultural exchange, to the extent that it promotes understanding, is very beneficial. I think at the other extreme, no one, at least in our company, is interested in a cultural exchange so extensive that it seems like a propaganda effort. We are not trying to promote other countries to believe as we believe, but rather, to understand what we believe and what our life is about.

Senator **Pressler**. Mr. Donaghue, for what reasons would a foreign country oppose the establishment of operations by an American information processing firm aside from the protection of a developing domestic telecommunications industry?

Mr. **Donaghue**. Well, one of the primary reasons, is the protection of the domestic industry. It goes back to this thought that we're all heading toward this information society and in many of the countries, the development of the data processing and the telecommunications infrastructure is at a much lower level than ours. And therefore, the concern has been that by allowing advanced, high technology U.S. services firms into that country, the competition would not allow their indigenous operations to develop.

Senator **Pressler**. Mr. Donaghue, trade barriers confronting information flows take many forms—privacy legislation, censoring news context, barriers to intercorporate information flows, potential taxes, controls on data processing, et cetera. How do you think that this wide range of information issues can be brought together in a coherent fashion and to which issues would you give priority?

Mr. **Donaghue**. Well, eventually we may bring this together in a coherent fashion, but at the moment, I seriously doubt that. Our approach in the United States has been to try to take the different aspects of the issue and resolve them one by one.

I think we did a very successful job in the development of the OECD guidelines on protection of privacy. Just 2 weeks ago, in Paris, there was an OECD meeting where the United States was able to report that over 100 U.S. companies had voluntarily complied with the OECD guidelines on privacy.

I won't say that that's put that issue to rest; but at least we've given assurance to the Europeans that we are as concerned about the protection of privacy of individual and personal information as they are.

The other issues we're now looking at, such as the impact of the noncorporate data flows and the potential restrictions of those flows are more complex. I would predict that in the next few years that just as restrictions on investment and different types of tax treatment and lack of national treatment, that restrictions on data flows will become as important a part of the U.S. multinational strategic thinking when it considers one country as against another one.

Senator **Pressler**. Transborder data flow issues appear to have become critical; yet, their significance does not appear to have stirred sufficient attention in the Government or even in the private sector. How can we remedy this lack of attention?

I guess transborder data flow—that phrase we could send up to Bill Safire at the New York Times, where he talks about new phrases, couldn't we?

The transborder data flow issues are not discussed by the housewives and the man on the street commonly, but they're very important.

Mr. **Donaghue**. They certainly are. Certainly, they're the lifeblood of most multinationals that are operating around the world today, and especially in the services area. Everything we do is based on data transactions in one form or another. We don't move gold around in the banking system; we move information about that gold. And therefore, to American multinationals and, in a growing sense, to all types of multinationals around the world, there is a growing awareness of this issue.

One of the problems in our Government has been the fragmentation of the policymakers or decisionmakers involved in the issue. If you look at the different international forums, that are discussing this issue today, you have the OECD looking at it from the industrialized countries view point; you have got the U.N. Center for Transnational Corporations that has recently completed a study on the impact of the issue upon the lesser developed country. In the north-south context, you have an organization called the Intergovernmental Bureau of Informatics that has a strong interest. You have the UNESCO now beginning to take a serious look at it. Now that UNESCO has decided what it wants to do with the media, it's now looking at this other aspect of information flows.

And within our Government, you have all different groups that deal with those different organizations. And as a result, there's fragmentation in our Government, and it seems to me that in most of these forums, then, we're somewhat behind the eight ball.

Senator **Pressler**. Mr. Parker, there has been discussion as to whether the United States needs an information policy similar to that developed in Canada and France and discussed in the European community. Is a broad-based information policy practical and if so, what are some of the elements which it could contain?

Mr. **Parker**. I'm not as well prepared on that as I might be. I would say that our basic attitude at CBS favors deregulation in the information area and relies on a spirit of competition and free enterprise. I get a little nervous about an information policy because it sounds like it's an attempt to control the development of one media as opposed to another or control directly news or information flow.

We regard a large part of our mission as responding to economic and business opportunities, with duty to report upon all sectors of our country, including Government.

Senator **Pressler**. Thank you very much.

Let me thank all the witnesses for their participation in this hearing, which I think has importance far beyond what meets the immediate eye. I might also say that I know that Control Data has done a lot of work on the use of computers for small farmers, although it is not very much a transborder data question.

We appreciate that. So let me conclude today by saying that we may leave the record open, with the permission of the full committee, to get any additional statements from different industries and areas. I think that we can perhaps fill in any gaps left with written testimony.

But I do want to thank all of the witnesses and participants and staff, both minority and majority, who have done a great deal of work on these hearings. They've been a real education for me. We will be moving forward on our legislation shortly.

So with that, I will conclude this hearing.

[Whereupon, at 12:10 p.m., the hearing was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF MARLOW W. COOK ON BEHALF OF BATUS, INC.

This statement is submitted on behalf of BATUS, Inc., 2000 Citizens Plaza, Louisville, Kentucky 40202. BATUS is the common parent corporation of an affiliated group of United States corporations which includes: Brown & Williamson Tobacco Corporation; the Kohl Corporation; Gimbel-Saks Retailing Corporation; and Appleton Papers, Inc. BATUS is owned by B.A.T. Industries, Ltd., which is a publicly held United Kingdom corporation. B.A.T. is the ultimate holding company of a group of corporations engaged worldwide in tobacco, retail, paper, grocery, cosmetics, packaging materials and other industries. It is the sixth largest foreign corporate investor in the United States.

This Committee is to be commended for its inquiries regarding United States service industries. As the goal of S. 1233 is to promote those industries and enhance their competitiveness it is certainly essential that the importance of the effect of United States taxation on the international competitiveness of the United States firms be studied, as section 5(b)(5)(A) would require. We would like to point out one area that deserves special legislative attention if United States corporations are to avoid taxation methods which could diminish their international competitiveness.

At the present there is in the United States a most confusing and ill advised situation in which the federal government and several individual states have contradictory policies regarding taxation of corporations which are members of a group of corporations doing business in more than one country. Not only are Untied States corporations subject to the vagaries of the contradictory tax system used by those few states, but United States corporations are susceptible to possible retaliatory taxing measures which may be imposed by other nations if the United States continues to have conflicting methods of corporate tax assessment. United States corporations are affected, whether they are subsidiaries of overseas corporations, or are parents of overseas corporations.

In administering the federal tax laws, the Internal Revenue Service has adopted the arm's length standard for apportioning income between related domestic and foreign corporations. Internal Revenue Code of 1954 section 482. Although the federal government is not concerned with the allocation of income among states, it is concerned with allocating income between the United States and foreign countries in which tax-paying corporations and their affiliated firms operate. The fundamental principle of the arm's length method is that income is to be determined on a separate acounting or separate enterprise basis governed by the requirement that all intercompany dealings between related parties must meet the arm's length standard.

Most states apportion the income of corporations doing businesss in more than one state to determine the amount of income subject to taxation in any one state. Income subject to tax is generally computed on the ratio of payroll, sales and property in the taxing state compared to all states. this apportionment formula is most commonly referred to as the "unitary method."

A few individual states, especially California, and Alaska, Idaho, Montana, North Dakota, and Oregon, somewhat, carry the unitary method a step further. They apply unitary apportionment to the worldwide operations of foreign affiliates of United States corporations, even when those corporations are involved in non-unitary and unrelated lines of business and are not conducting business in the taxing state, or even in the United States. It is this unwarranted extension of the unitary method to worldwide operations of affiliated corporations that has become known as the "worldwide combined reporting system."

That system as used by California was described by the late Laurence N. Woodworth, then Assistant Secretary of Treasury, in a prepared statement submitted to the Senate Foreign Relations Committee on July 19, 1977:

"California tax authorities appear to construe the definition of a unitary business very broadly, so that related entities which appear to be independently engaged in very different kinds of activities are aggregated into a unitary business and must be included in a combined report to the tax authorities.

"The combined report is, in effect, a consolidated return of the controlled group's worldwide income, although separate returns may be made for each member of the group. Tax Treaties with the United Kingdom, the Republic of Korea, and the Republic of the Philippines, hearings before the U.S. Senate Committee on Foreign Relations, 1st Session, 95th Congress, Statement of Laurence N. Woodworth, pp. 32–33."

Though formulary apportionment of the unitary system may work for activities within the United States, its application to overseas activities presents serious problems of very different systems of accounting, languages, currencies, levels of productivity, cost of labor, cost of materials, and elements of risk. The obvious differences in property and labor costs worldwide builds in an instant unbalance.

In nearly forty income tax treaties which the United States has negotiated, it is the arm's length, separate accounting, separate enterprise principle which has been adopted, not the worldwide combined reporting system. This international stance of the United States has also been evidenced in approximately twenty-five treaties of friendship and commerce with which the United States has entered into with foreign nations.

Having considered the abuses to which the use of the worldwide combined reporting system subjects corporations which have affiliates in more than one country, the International Chamber of Commerce issued the following resolution on September 26, 1979:

"The ICC views with concern the inevitability that an increase in cases in which profits taxes are levied by political sub-divisions unencumbered by treaty obligations will result in mounting double taxation of profits (which tax treaties set out to avoid). This is particularly so if the basis of assessment in any such political subdivision is not entirely consistent with that of the country itself and extends to operations carried on outside the country. This problem has manifested itself in an acute form in connection with the attempts of the State of California to impose the "global" or "unitary" form of assessment based on income of companies involved in international operations outside the U.S.

"The dangers of double taxation and the administrative problems arising from the taxation policy of California, and other political sub-divisions, have undoubtedly deterred would-be investors from making investments which would have been otherwise undertaken. This approach, if it should spread, could easily become a most important threat to international trade since international operations would inevitably be confronted with a real danger of multiple taxation of the same profits and unacceptable administrative burdens. The dangers were also recognized by the Council of the OECD in rejecting the so-called "global" method in its recent report on Transfer Pricing (Transfer Pricing and Multinational Enterprises (OECD, Paris, July, 1979) pp. 14–15.

"The ICC reconfirms its view that, as a general rule, tax should be based on a fair measure of income as computed by reference to the amount which could be expected to arise between independent parties dealing at arm's length. This rule has universal application. The ICC recommends that, in all cases where the taxation policies of political sub-divisions extend to non-domestic operations, all possible measures should be taken to ensure that the terms of an agreement or treaty dealing with taxation on income should bind all authorities having jurisdiction within the boundaries of each contracting State. This recommendation is in accordance with the OECD Model Taxation Convention, 1977 (Art. 2) and a considerable number of international friendship, trade and shipping treaties."

During the consideration by the House of Commons of the Income Tax Treaty between the United States and the United Kingdom in which the federal government agreed not to use the worldwide combined reporting system, Member of the House of Commons, Roger Moate, pointed out that not only England should be concerned about the spread of the system:

"It is a bad international precedent for the British Government or any other nation to have to look to perhaps 50 states in the United States for an understanding of the way in which we are to conduct our international tax affairs. That cannot be right. I am sure that the United States understands that this is a grossly unsatisfactory situation.

"It is a bad international precedent, because of the damage that it could do all world trading nations. Page 194, February 18, 1980, Hansard."

There is currently pending legislation which would limit the use of the worldwide combined reporting system. S. 655 is sponsored by Senators Bentsen, Ford, Huddleston, Mathias and Tower. An identical House bill, H.R. 1983 is sponsored by nineteen of the thirty-five members of the Committee on Ways and Means.

That legislation was drafted in accordance with the recommendations of the 1977 Task Force on Foreign Source Income which was formed by the House of Representatives Committee on Ways and Means to study five areas involving the taxation of foreign source income. Its recommendation regarding state taxation of foreign source income was:

"1. Income of foreign affiliates not subject to Federal income tax.—It is recommended that the States be precluded from taking into account, under the unitary or any method, the income of foreign affiliates of corporations doing business within the States until such time as that income is subject to Federal income tax. Committee on Ways and Means, U.S. House of Representatives, Recommendations of the Task Force on Foreign Source Income, Committee Print, 95th Congress, 1st Session, page 30."

Hearings were held on the 96th Congress version of S. 655 and H.R. 1983 before the Senate Committee on Finance Subcommittee on Taxation and Debt Management Generally on June 24, 1980, and before the House of Representatives Committee on Ways and Means on March 31, 1980, respectively. At the Committee on Ways and Means hearing Donald C. Lubick, Assistant Secretary of the Treasury for Tax Policy, described worldwide combination as "contrary to the conventional international practice," referred to its "administrative burden," and labeled it "an international irritant." He stated:

"There is much concern among many of the countries of the world that many of the less developed countries may choose to emulate the States and go to a unitary apportionment method to increase their revenues. This would be very unfortunate for international commerce and trade. Hearings before the U.S. House of Representatives Committee on Ways and Means on H.R. 5076, 2nd Session, 96th Congress, Statement of Donald C. Lubick, pp. 4-5."

As this Committee studies the means to promote United States service industries and enhance their competitiveness, it too should be concerned regarding the possible spread of the worldwide combined reporting system and possible retaliatory taxing measures being imposed because of its use in contradiction to the established taxing policy of the federal government.

Thank you.

STATEMENT OF WILLIAM D. TOOHEY, PRESIDENT, TRAVEL INDUSTRY ASSOCIATION OF AMERICA

My name is William D. Toohey and I am president of the Travel Industry Association of America or TIA. I am pleased to submit this statement today in support of S. 1233 the Service Industries Development Act, and to share with you the interests and concerns of the travel industry.

Tourism in America is served by nearly a million different businesses offering a wide range of services to the traveler. Most of these businesses are organized nationally by industry component and are represented by trade associations to promote and protect their specialized interests; however, to represent the broad base of tourism, the Travel Industry Association of America deals with matters of interest and concern common to all in the travel industry.

TIA's membership is drawn from airlines, attractions, hotels and motels, travel agents, tour operators and brokers, convention and visitors bureaus, State government travel offices, food service establishments, intercity bus and rail lines, and other components of the travel industry.

TIA's purpose is to benefit the travel industry as a whole, through unifying its goals and coordinating private industry efforts to encourage and promote travel within and to the United States. In recent years, the association has substantially increased its involvement in Government actions that affect tourism, and in support of research that is vital to the concerns of the industry. By working together to seek common goals, travel industry associations and businesses have increased recognition by Government officials of the importance of tourism and have unified the industry on many of the issues it faces.

The travel and tourism industry is currently the third largest retail industry in the United States, exceeded only by the food and automotive industries. It directly employs 4.5 million Americans at every level of skill and indirectly provides another 2.2 million supporting jobs. The industry constituents of TIA alone employ approximately 1.4 million American workers. The industry generates approximately $27 billion a year in wages and other compensation and $18 billion per year in federal, state and local tax revenues. Travel provides large numbers of entry-level positions and a substantial portion of these jobs are filled by minorities, youth and women. At a time when the service sector of our economy accounts for the greatest employment growth, travel is one of the most labor-intensive service industries and employs those who most need jobs and traditionally have the most difficulty finding them.

I cite these figures to convey some understanding of the great breadth and scope of the tourism industry and its importance to a healthy economy and full employment.

Travel represents a number of service industry components including food services, lodging, transportation, advertising and entertainment. Travel also enjoys a symbiotic relationship with services such as telecommunications, banking insurance, and high as data processing and computer services. Thus, as a critical component of the service sector, the travel industry has for some time sought to focus national attention on this vital segment of our economy.

Over the past several years, the growth in service exportation has burgeoned to a degree neither anticipated nor addressed by our trade policies. This is attributable in part to a general misperception of the major role played by services in the U.S. economy, their potential for growth, and what should be done to fulfill that potential.

We do not overstate our case when we say that the U.S. is primarily a service economy. The service sector accounts for 65 percent of the gross national product and approximately 30 percent of total international trade turnover. Recent Department of Commerce estimates place 1980 service export revenues at $128 billion. Service is labor-intensive; 70 percent of American workers are employed by service related industries. Service provision generally requires less initial capitalization than manufacturing and seems to be less vulnerable to inflation and recession.

This position of economic preeminence is commonly thought to be occupied by the manufacturing sector. This is simply not the case. The provision of services overtook the production of goods as our principal economic activity shortly after World War II. More recently, the exceptional performance of the service sector resulted in a balance of payments surplus of $34 billion in 1980. Combined with a merchandise trade deficit of more than $27 billion, an overall gain of $7 billion was achieved. Clearly the service sector contribution has been greatly underestimated.

United States domination of the international service trade has not gone unchallenged. Indeed, the U.S. share of such trade has declined—from 25 to 20 percent in the last decade. Therefore, U.S. share of world tourism receipts fell from 15.3 percent in 1976 to 13.0 percent in 1980. We have also recorded a slower annual growth rate for U.S. tourism receipts relative to worldwide growth.

This decline is, to some degree, due to the vulnerability of our service industries to international trade barriers. As other countries continue to develop their own service sectors, the international marketing of them becomes extremely competitive. This is as it should be. The problem occurs when we each start playing the game by different rules. This happens when foreign government policies operate to protect their own industries against American competition either by discrimination or some form of subsidy.

With respect to travel, aviation provides good examples of this. American carriers are, in nearly every country, forced to operate under conditions that could not occur here. Germany operates a national automated reservations system known as START. This system is accessible to American carrier schedules only at prohibitively high rates—far above those paid by the German national carrier, Lufthansa. Similar systems prevail in France and Scandinavia. In the United Kingdom, carriers are assessed landing fees on the basis of aircraft weight. Transatlantic aircraft are of course heavier and thus pay the highest fees. Ironically, it actually costs the U.K. less to provide larger and heavier aircraft with landing services than to provide these services for their own domestic carriers. American carriers often pay more for fuel in other countries—up to 130 percent more in Peru for example—than does the domestic carrier. Often our airlines cannot even operate a ticket desk or baggage claim area in a foreign airport.

Obviously, some of this is unavoidable. Our free-market economy is unduplicated anywhere else in the world. Whenever there are differing philosophies and nationalized industries, competitive life is made fundamentally unfair. However, it lies within our power to pursue a greater reciprocity with those who are our service trading partners. Until now, that has not been done. This is due in part to the agreements which govern international trade in services. Merchandise trade is governed by the GATT (General Agreement on Tariffs and Trade), in which many countries participate. Services, on the other hand, are for the most part covered by a complex multitude of bilateral agreements between individual countries. The major problem with these agreements is that they are nearly impossible to enforce even when their language provides for enforcement. When they are violated, in letter or spirit, there are few appropriate mechanisms with which to resolve these disputes.

The problem is further complicated by the fact that there really is no specific government entity with sole jurisdiction over these matters. Agencies with some jurisdiction over service trade include the United States Trade Representative (USTR), the Office of Finance, Investment and Services (FINS) in the International Trade Administration and the State Department's Office of International Trade The combined authority represented by these agencies is in many cases duplicative, and in others leaves significant gaps.

The present proposal would, for the travel industry, address many of these problems. It represents that important first step in finally recognizing the place service trade has come to occupy in the economy and its massive growth potential. It acknowledges the myriad of international service agreements and proposes to simplify this process through greater multilateral negotiation, and the bill would more effectively coordinate government policy with respect to enforcement and agency role. The Service Industries Development Act seeks to promote service trade internationally in keeping with its stature as our major export.

This final point is of particular interest to the tourism industry inasmuch as it continues the effort recently begun by the passage of the National Tourism Policy Act. NTPA, in combination with Service Industries Development legislation will represent an effective means to strengthening our economy and promoting future growth. We thank and commend the committee for its leadership in this area.

Motion Picture Export Association of America, Inc.,
Washington, D.C., October 29, 1981.

Hon. Larry Pressler,
Chairman, Business, Trade, and Tourism Subcommittee, U.S. Senate, Washington, D.C.

Dear Larry: I deeply regret that my schedule prevented me from testifying on October 20 before your Subcommittee on Business, Trade and Tourism on the Service Industries Development Act, S. 1233.

I applaud your efforts to assist service industry exports by the establishment of a development program in the Department of Commerce. I am particularly impressed by the fact that two of the goals of this bill are: (1) to "develop policies to strengthen the competitiveness of domestic service industries relative to foreign firms" and (2) to establish helpful antitrust policies as they affect the competitiveness of U.S. firms.

The issues before you in the consideration of this legislation are of immense importance because the great economic priority of the 1980s will be the capacity of the United States to rise to the challenge of both productivity and export trade. The war for export trade will be waged without pause by a growing number of nations in all parts of this shrunken planet.

During my tenure as President of the Motion Picture Export Association of America (MPEAA), I have personally seen how vitally important it is to the motion picture industry to have rational, sensible, helpful U.S. export policies to enable MPEAA to fight the barriers and restrictions which constantly threaten to choke off our access to foreign markets.

I am sure that I do not need to tell you that the American film industry operates abroad in a jungle of hostile actions by foreign governments and foreign cartels. Without the weapon of a limited antitrust immunity under the Webb-Pomerene Act, we would often be at the mercy of these hostile actions. I can assure you that the congressional wisdom in enacting this 1918 Act is a major reason for the fact that American film exports bring back to the United States large net revenues every year. Today these net revenues amount to nearly $1 billion annually, an important asset to our trade balance.

So I endorse your efforts and those of your Subcommittee to establish a federal policy that will enable American businesses to deal with existing export trade obstacles and to take appropriate actions that may prevent the erection of new trade barriers.

I certainly share the views of U.S. Trade Representative William Brock, quoted in The Wall Street Journal of October 5, 1981, when he said: "Services are the frontier for the expansion of export sales."

Sincerely,

Jack Valenti, *President.*

AIMU,
New York, N.Y., November 4, 1981.

Senator LARRY PRESSLER,
Chairman, Subcommittee on Business, Trade, and Tourism, Senate Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATOR PRESSLER: The American Institute of Marine Underwriters (AIMU) is grateful for this opportunity to comment on the Service Industries Development Act, S. 1233. We hereby respectfully request that this letter be made part of the official record of the hearing on S. 1233, held by the Subcommittee on Business, Trade and Tourism on October 20, 1981.

Your interest in the problems faced by U.S. service industries operating abroad is indeed heartening. AIMU is a trade association representing 126 ocean marine underwriting companies authorized to do business in one or more of the United States. The American Ocean Marine Insurance Market is an industry which has been hard hit by the restrictive trade measures taken by many of our trading partners. Some 40 countries have adopted protectionist trade policies which prohibit importers and exporters from freely contracting for cargo insurance with underwriters of their choice. Attached is AIMU's list of countries which impose restrictive ocean marine cargo insurance measures in international trade. The U.S. Trade Representative has also compiled a list of restrictive trade measures affecting the ocean marine industry. Documentation of these carriers to trade is abundant. Unfortunately, our industry has been burdened by restrictive trade measures for three decades. During that time, restrictive trade measures affecting transport insurance have proliferated.

With the passage of the Trade Act of 1974 and subsequent amendments, we were given a tool with which to counter this growing threat to our industry's competitive position. Our first Section 301 petition involved the Soviet Union, which required that all shipments of cargo to and from the Soviet Union, including grain shipments from this country to Russia, be insured with the Soviet insurance institutions. As a result of that petition, an agreement was reached by which the American Marine Insurance Market was to be assured a "substantial" portion of the business on the trade between the two countries. Unfortunately, due to the trade embargo and the deterioration of relations between the Soviet Union and the United States, the agreement has not been enforced. We are currently seeking American Ocean Marine Insurance Market participation in the transport insurance on the again growing U.S.-Soviet trade.

AIMU's second petition before the U.S Trade Representative concerned the restrictive marine cargo insurance measures imposed by the Republic of Argentina. Consideration of our petition is now being held in abeyance pending establishment of multilateral trade negotiations to work towards elimination of such discriminatory practices. Regrettably, we understand that these negotiations may not take place for several years. We are hoping that the interest of your committee in the U.S. service sector and the barriers it faces abroad will help speed up the process of getting underway these negotiations.

Clearly, there is much more that we as a nation can do to assure that U.S. service industries, such as the American Ocean Marine Insurance Market, can compete on an equal footing with those of other countries. A case in point is the failure of the Export-Import Bank to require freedom of contract or open procurement for transport insurance on exports which are guaranteed or financed through Eximbank's loans. Foreign governments have a free hand in imposing their restrictive trade policies in such transactions. Despite the fact that such exports are financed by U.S. taxpayers, American ocean marine underwriters cannot compete for such business.

Enactment of S. 1233 could make a significant contribution by focusing the attention of agencies of the U.S. government on the needs of U.S. service industries and on the development of an integrated set of national policies. We hope that Congress will respond rapidly and take decisive action to aid the service sector. The importance of service industries to the U.S. economy has been clearly documented. The American Ocean Marine Insurance Market is vital to the free flow of goods to and from this country and to the development and maintenance of a strong merchant marine. Through these discriminatory practices, our industry has lost the opportunity to compete for premiums on a substantial portion of international trade resulting in incalculable lost profits. We hope that this Congress and the new Administration will be able to find the tools necessary to deal with this growing problem.

AIMU would be pleased to assist your committee in whatever manner possible. Please let us know if we can provide any further information.

Very truly yours,

Thomas A. Fain, *President.*

Enclosure.

Summary of Restrictive Marine Insurance Measures

The following countries have laws, decrees or regulations which interfere with the right of an American exporter (or importer) to negotiate freely the purchase of transportation insurance. Some countries engaging in restrictive marine insurance practices are not included because of lack of clarity or proof of discrimination (e.g., by taxes, foreign exchange control, reinsurance practices, etc.)

Algeria [1]
Argentina [1, 2]
Austria [2]
Bangladesh [1]
Barbados [1]
Bolivia [3]
Brazil [1]
Burundi [1]
Columbia [1]
Congo Republic [1]
Dominican Republic [1]
Ecuador [1]
Egypt [2]
Ethiopia [2]
Gabon [1]
Ghana [1]
Haiti [1]
Iran [1, 2]
Iraq [1, 2]
Italy [2]
Jordan [1]
Kenya [1, 2]
Laos [2]
Libyan Arab Republic [2]
Mauritania [1]
Mexico [2]
Nicaragua [1]
Nigeria [1]
Oman [1]
Pakistan [1]
Peru [1]
Sierra Leone [1]
Somalia [1]
Sudan [1]
Syria [1]
Tanzania [1]
Tunisia [1]
Uganda [3]
Venezuela [4]
Yemen Arab Republic [1]
Yemen, People's Democratic Republic of [1]
Zambia [2, 5]

[1] Imports must be insured in domestic insurance markets.

[2] Tax and/or Foreign Exchange regulations impede U.S. insurance competition.

[3] Imports/exports, under national ownership, must be insured in a domestic or an admitted insurance company.

[4] All imports benefiting from partial or full exemption of Customs duties must be insured in Venezuela.

[5] All exports must be insured in Zambia.

Note.—Not all state monopolies are included in AIMU's listing, for example, USSR and other countries, where State monopolies exist.

With all shipments financed by the United States Agency for International Development (AID), the American exporter has every right to negotiate freely the terms of insurance coverage. No prohibition against such freedom can be enforced. (Any effort to do so should be reported immediately to AIMU.)

Thomas A. Fain, *President.*

Northwestern Bell,
Sioux Falls, S. Dak., November 17, 1981.

Hon. Larry Pressler,
Chairman, Business, Trade, and Tourism Subcommittee, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I appreciate this opportunity to express the views of the Bell System on S. 1233, the "Service Industries Development Act." We are pleased that you have focused the attention of Congress upon the need to promote U.S. service industries and we support passage of S. 1233.

The Bell System has a vital interest in matters of foreign trade through its subsidiary, AT&T International, Inc. AT&T International provides telecommunications equipment and services in the international marketplace with principal overseas operations in Korea, Saudi Arabia and Taiwan. AT&TI's experience in serving the telecommunications needs of overseas telephone authorities and international business customers confirms the necessity for strong U.S. Government support for the world trade position of our domestic service industries.

The Business, Trade and Tourism Subcommittee is very timely in its consideration of S. 1233. It has been evident for some time that, in many countries, the government plays an active role in fostering coordination between the public and private sectors toward the end of increased exports in services. The establishment of a program within the Department of Commerce, as provided for in S. 1233, could enhance the development of such coordination in the U.S. to the mutual benefit of the country and its foreign trading companies.

The program contemplated in this legislation would provide other advantages as well. The collection and analysis of information pertaining to the international operations and competitiveness of U.S. service industries could serve to simplify government regulation in the foreign trade area and thereby assist American industries in competing abroad. We are pleased that the legislation under consideration includes a provision for offering to private industry the statistical, analytical and policy information developed by the Department of Commerce.

We commend the efforts of the Subcommitee in opening this subject to public hearings and look forward to the opportunity to work with the Department of Commerce in carrying out the program provided for in the "Service Industries Development Act."

RICHARD J. CALLAHAN,
Vice President and Chief
Executive Officer, South Dakota.

PAN AMERICAN WORLD AIRWAYS, INC.,
New York, N.Y., November 25, 1981.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, D.C.

DEAR SENATOR PRESSLER: Thank you for the opportunity to comment on S. 1233, the Service Industries Development Act.

U.S. international airlines represent a major part of the United States' international trade, having generated sales of $2,582,000,000 in foreign countries during the calendar year of 1980 and sales in this country of $2,504,000,000 to citizens of the United States on international travel for business, government and pleasure purposes.

At the same time, it must be realized that the airlines of other nations have carried an increasingly larger share of all international air travel to and from the United States, that share having amounted to 50.9 percent in 1980. An undoubted cause of that increasing share has been the failure of previous administrations to lend adequate understanding and support to the U.S.-Flag international air transportation system and the following of policies which were based more on temporary consumer interests rather than the long-term strength of the industry. In 1971, by contrast, the foreign flag airlines carried only 43.5 percent of all international air traffic to and from the U.S.

In view of this untoward development, any better understanding of the situation and tangible support which can be given to the U.S. air transportation companies, as is envisioned in S. 1233, are desirable and appropriate.

Care should be exercised, however, not to bring about confusion in the responsibilities of the federal agencies presently charged with the development of whatever minimum regulation is required in the field of international air transport and the negotiations of international air treaties necessary to the conduct of airline service between countries. These regulatory functions and negotiations are currently assigned to the Department of Transportation, the Department of State, the Federal Aviation Administration and, until sunset, the Civil Aeronautics Board. Fragmentation of these clearly defined responsibilities would scarcely be progress, though encouragement and vigilance to ensure that their policies are framed in the interest of fostering the strength of United States trade would seem entirely appropriate.

Analysis of the tax treatment of services with emphasis on the effect of United States taxation on the international competitiveness of United States airlines and of antitrust policies, called for in Section 5(b)(5) (B) and (C) of S. 1233, are particularly pertinent. U.S. international airlines have recently been placed in jeopardy by proposed tax arrangements with the Philippines, Venezuela and the People's Republic of China. Complete understanding of antitrust provisions of other countries, or the lack of them, for their national carriers is essential to arranging the proper competitive climate for the U.S. Flag, both in airline operations and in the many forms of technical assistance conducted by the U.S. airlines for foreign airlines, airports and governments.

In the light of the above, and with specific reference to the provisions of S. 1233, we would:

(1) Encourage the establishment in the Department of Commerce of a service industries' development program (Section 5(a)).

(2) Urge the exclusion from Section 5(b)(7) of all air transport negotiations, since these are now handled by the Departments of State and Transportation.

(3) Urge the exclusion from Section 5(b)(8) of statistical information on air transport in the domestic service sector, since these have been collected to an onerous degree by the CAB and are now being cut down to the necessary minimum in the process of deregulation.

(4) Urge the amendment of the language in Section 3(2) to avoid confusion in the aviation responsibilities of the Administration, to read:

"(2) the Department of Commerce shall have, in coordination with other appropriate agencies, responsibility in the Executive branch for developing and ensuring the implementation of policies . . ."

We continue to be most grateful for your leadership in the strengthening of the U.S. international air transport industry.

With kind personal regards.

Sincerely yours,

JAMES MONTGOMERY,
Chairman,
Pan Am World Services.

[From the Washington Post, Nov. 2, 1981]

CANADA'S UNFAIRNESS DOCTRINE

(By Walter H. Annenberg)

Prime Minister Pierre Trudeau's crusade to "Canadianize" his country's culture and economy at the expense of the United States is bogging down in political and financial quicksand. It is a crusade that, in the course of gaining easy victories over American broadcasting and publishing and battering our energy companies, has managed to exacerbate Ottawa's bitter conflict with the Western provinces, force sorely needed Canadian investment money into the United States, depress the Canadian dollar to a 50-year low and bring the American Congress to the brink of retaliatory legislation that would give Canada a taste of its own restrictive medicine.

"Canadianization" has a ring of bureaucratic idealism that well might appeal to a nation most of whose industries and natural resources are controlled by outsiders. That the outsiders—chiefly Americans—were urgently invited to build factories and explore for oil and gas and minerals and that American investment helped Canada prosper and grow were forgotten or ignored by political sloganeers demanding "Canadianization."

Perhaps the Trudeau crusade would have been more successful if it had not coincided with—or perhaps been the cause of—a surge of Canadian business expansion into the United States:

The largest Canadian banks had for years maintained offices in American cities. Now they became more active, establishing new branches, buying some local banks, competing with American banks for big loans.

Canadian cable companies that provide television reception for some 56 percent of Canadian households began bidding for—and winning—franchise rights to wire American cities.

Instead of supporting Trudeau by spending their money to buy out American interests in Canada, cash-rich Canadian companies are scrambling to buy American companies in the United States.

Canadian oil companies found it profitable to do business in the United States and began investing heavily in buying American companies and engaging in exploration free of "Canadianization" incentives—and restrictions.

Ordinarily such signs of confidence in the American economy would be welcome. Unfortunately, they served only to highlight the unfairness of Canadian regulations, which prevent Americans from competing equally in Canada.

For years American banks operated under severe controls in Canada. Now, under new regulations, they may compete on an equal footing, but only up to a point. The Trudeau government limits the assets of all foreign banks to eight percent of the domestic assets of all banks in Canada—which effectively curtails growth of American and other foreign banks there.

Canadian banks face no such size limitations in the United States. Indeed, they are able to circumvent some of the strict Federal controls that govern American banks here. For example, an American bank may not lend more than 10 percent of its assets to one borrower. It also may not lend money for a stock purchase unless the borrower pays cash for at least 50 percent of the securities' market value. Canadian lenders, not being bound by such rules, have a distinct competitive advantage.

One of the first steps taken by the Trudeau government to support Canadian culture was to make it illegal for a Canadian company to include money spent for advertising on an American television station or in an American publication as a business expense for tax purposes. It placed a 50-percent limitation on the amount of foreign programming that could be carried by Canadian stations in prime time and then authorized Canadian cable systems to eliminate many network commercials from American shows. Finally, foreigners were prohibited from owning more than 20 percent of a cable system, and all directors of cable companies had to be Canadians.

There are no such limitations in the U.S. One Canadian cable operator, Ted Rogers, recently paid $152 million for control of an American cable company that has systems in 15 states. Rogers says he spends $3 million a year apply for new American franchises; and his holdings already include systems in Portland, Ore.; Syracuse, N.Y.; Los Angeles County and suburban Minneapolis. Canadian publisher Maclean Hunter owns systems serving a potential 500,000 households in New Jersey and in the suburbs of Detroit. Another Canadian company, Cablecasting, serves a potential 500,000 households in Atlanta and its suburbs and in California's San Fernando Valley.

American cable operators object vehemently to what amounts to a prohibition on their doing business in Canada while Canadians are free to bid against them for profitable franchises in the United States.

The Canadian Radio-television and Telecommunications Commission is now accepting applications for the first pay-television network there. So far, some 54 companies have submitted proposals. No American firm even bothered to apply.

Apparently the Prime Minister had hoped to pacify Western Canada, especially the important oil province, Alberta, with a National Energy Program that would reduce foreign ownership of Canadian oil and gas companies from 72 percent to 50 percent by 1990. The plan provided tax incentives to Canadian-owned companies for exploration and development, awarded the rights to 25 percent of new production on federally owned "Canada Lands" to a government-owned company, set low oil and gas prices and increased taxes on energy.

American companies were especially hard hit. The Sun Company had invested $500 million to pioneer a method of extracting oil from Alberta tar sands. Syncrude, a Canadian company owned in part by the government, promptly set up shop close by, using the Sun process. The National Energy Program specifically ruled that Sun could charge no more than what amounted to half the going oil price for its product, but there were no such restrictions placed on Syncrude.

Nor did the plan suit Alberta, which produces 85 percent of Canada's oil and gas and is restless under rules made by a government it doesn't like or support. That province, incensed over the low energy prices and high taxes in the National Energy Program, implemented a 10-percent reduction in oil production in order to force Eastern Canada to pay high OPEC prices for imported oil. After more than a year of bitter contention, Ottawa announced it would lift the controversial tax on natural-gas exports and permit oil prices to rise—including prices on Sun's tar-sands oil. Alberta then increased its oil production. There is now an uneasy peace between Alberta and Ottawa, but for how long, no one knows.

The long energy controversy and the economic uncertainty it brought about prompted many Canadian independent oil companies to begin looking to the United States for their future operations. Home Oil of Calgary is reported to be willing to spend as much as $1 billion for an American oil company. Other Canadian companies are prepared to spend hundreds of millions for American bases. They are opening offices in Denver and Houston, moving drilling rigs south and investing in land leases.

So much money is fleeing "Canadianization" that Ottawa has had to ask investors to slow down in order to permit the Canadian dollar to recover from its 50-year low.

Meanwhile, American oil companies that have huge investments in Canada admit they are being "squeezed," but most are hanging on—at least for the time being. One American company, however, Marathon Oil, said it was going to sell two of its subsidiaries that operate oil, gas, coal and mineral properties in Canada. Publicly the company said it had "determined that its current investment and any future expenditures in Canada might be more profitably utilized elsewhere."

The frustration of American broadcasters, bankers, cable operators, oil companies and others hit by a "Canadianization" campaign that denies them freedom to do business in Canada as freely as Canadians do business in the United States inevitably must be reflected in Congressional action. So far, although bills are pending, Congress has resisted doing unto Canada as Canada does unto us, and wisely so; for in such a controversy, retaliation can lead only to escalation—although it is a temptation when Canada's Minister of Energy Marc Lalonde presumes to warn the United States: "If anti-Americanism is agitated, it will not be by us. It will be the result of some extreme actions or statements by officials or congressmen in Washington".

Congress has, however, so far held up its approval of the $30–50-billion Alaskan gas pipeline, most of which would traverse Canada on its way from Prudhoe Bay to Illinois. Ostensibly, the reason for the delay is Congressional reluctance to provide all the financial guarantees demanded by Wall Street. At least some of the legislators, though, must be hesitant to relinquish control of what will amount to five percent of the Nation's gas supply to a country that vacillates between the courageous friendship it required to spirit American diplomats out of Iran and the virtual confiscation of American property by a government that frequently resorts to demagogy in its treatment of free enterprise. Certainly it would seem safer to liquefy the Alaskan gas and ship it south by tanker rather than send it through a vulnerable pipeline that could be plugged at any time by Ottawa.

The Canadians are our closest allies and our most important trading partners—as we are theirs. Prime Minister Trudeau is fond of saying, "Living next to the United States is in some ways like sleeping with an elephant. No matter how friendly and even-tempered is the beast, one is affected by every twitch and grunt."

Acid rain pouring from U.S. factories onto Canadian forests and waters and U.S. reluctance to conclude a fishing agreement or to renegotiate an automotive free-trade pact are twitches and grunts that should long since have been quieted. That they have not been is deplorable.

The Trudeau "Canadianization" policy is, of course, Canada's affair, but it does become a matter for our concern—and action—when we feel its impact so severely. If Canada is to halt the flight of Canadian money to the United States and once again attract the foreign capital the country requires to maintin its standard of living, our northern neighbor might find it prudent to consider a more equitable way to attain its goals.

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